

MAHGDEN1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

20 Cr. 623 (JSR)

5 WILLIE DENNIS,

6 Trial

7 Defendant.

8 -----x

9 New York, N.Y.
October 17, 2022
10 9:00 a.m.

11 Before:

12 HON. JED S. RAKOFF,

13 District Judge
14 and a Jury

15 APPEARANCES

16 DAMIAN WILLIAMS

United States Attorney for the
Southern District of New York

17 SARAH KUSHNER

STEPHANIE SIMON

18 KIMBERLY RAVENER

Assistant United States Attorney

19 WILLIE DENNIS, Pro Se

20 Also Present:

21 Colleen Geier, Paralegal

22 Elisabeth Wheeler, FBI

MAHGDEN1

(In open court; jury not present)

THE COURT: So it's now about eight minutes after 9:00. This session was called for 9:00 o'clock, so we could go over -- there is Mr. Dennis. I'm sorry, Mr. Dennis. So we're ready to proceed.

So Mr. Dennis, are either of your witnesses here yet?

MR. DENNIS: Your Honor, I will not be calling witnesses.

THE COURT: Okay. So let's turn to the draft instructions of law to the jury.

With respect to instructions number one through nine, which are standard instructions, any objection or addition or other comment from the government?

MS. KUSHNER: No, your Honor.

THE COURT: Any objections, additions or other comments on instructions one through nine from the defendant?

MR. DENNIS: Your Honor, if you would give me a moment.

THE COURT: Do you need another copy?

MR. DENNIS: Yes, please.

THE COURT: Okay.

(Pause)

THE COURT: So with respect to instructions numbers one through nine, which are the standard instructions, any comment, addition or correction from the defendant?

MAHGDEN1

1 MR. DENNIS: No, your Honor.

2 THE COURT: Very good.

3 On Page 12, what's the name of the FBI examiner?

4 MS. KUSHNER: Stephen Flatley.

5 THE COURT: Stephen with a V or a P-H?

6 MS. KUSHNER: P-H.

7 THE COURT: Stephen.

8 MS. KUSHNER: Flatley, F-L-A-T-L-E-Y.

9 THE COURT: Turning to instruction number ten. And
10 this of course is the main instruction on the three counts.

11 Any objections, corrections or additions from the
12 government?

13 MS. KUSHNER: Your Honor, the government has a few
14 suggestions and additions. The first, in describing the second
15 element, the instructions currently read to "intimidate means
16 to threaten with bodily harm," and that's not in the statute.
17 So we would ask that the "with bodily harm" be excised and that
18 the instruction be changed to read something along the lines of
19 "to intimidate means to threaten or frighten the victim or
20 compel him or her to act."

21 THE COURT: Well --

22 MR. DENNIS: Your Honor, I object.

23 THE COURT: I will hear from you in a minute. I just
24 want to get the wording the government is suggesting.

25 To intimidate, in the government's view, means to

MAHGDEN1

1 frighten?

2 MS. KUSHNER: To threaten, as the Court has, or to
3 frighten the victim or compel him to do or not do something.

4 THE COURT: What is it that you say the victims in
5 this case were compelled to do or not to do?

6 MS. KUSHNER: To leave New York, to support him in the
7 lawsuit.

8 THE COURT: Well, I don't recall that any of the
9 emails suggested that that's what the victims should do.

10 MS. KUSHNER: There are messages to Ms. Bostick, for
11 example, where the defendant commands to her, quote, speak.
12 Quote, to leave New York, to stop practicing.

13 MR. DENNIS: Objection.

14 THE COURT: I'm going to get to you in just a second.

15 To intimidate means to frighten or to seek to cause a
16 victim to what?

17 MS. KUSHNER: To act or not to act in a certain way,
18 to compel.

19 THE COURT: So cause a victim --

20 MS. KUSHNER: To act in a manner the victim would not
21 have otherwise acted. So that's the government's view.

22 Anything else from the government before we get to
23 Mr. Dennis?

24 MS. KUSHNER: Just to confirm that the word threaten
25 is still in the instruction and the word bodily harm is no

MAHGDEN1

1 longer in the instruction.

2 THE COURT: I understand, that's what you were --

3 MS. KUSHNER: Okay. And then the other request from
4 the government would be -- and this is just based exactly on
5 the language in the statute -- that in addition to saying --
6 this is in the second paragraph and the third element
7 paragraph -- in such manner as to cause or attempt to cause.

8 THE COURT: Does someone have a copy of the statute or
9 what's the number?

10 MS. KUSHNER: 2261(A) subsection (2)(b).

11 THE COURT: Causes, attempts to cause or would be
12 reasonably expected to cause substantial emotional stress. So
13 this goes to the third element.

14 MS. KUSHNER: Yes, your Honor.

15 THE COURT: I'm sorry, I thought you were still on the
16 second element.

17 MS. KUSHNER: No. Sorry. In the second paragraph of
18 the instruction, it references that third element, so it says
19 to harass or intimidate another person in such manner to cause
20 or attempt to cause. And then the same change in that third
21 element paragraph, course of conduct caused or attempted to
22 cause.

23 THE COURT: So let me hear now from Mr. Dennis.

24 MR. DENNIS: Your Honor, prior to making any
25 statements regarding this issue, I would like to see -- I would

MAHGDEN1

1 like to get a copy of exactly what the government proposes
2 to -- the changes that the government proposes this morning,
3 and I'd like an opportunity to review it against the statute.

4 THE COURT: No. No. I'll read it to you.

5 MR. DENNIS: I'd like to have a copy to read myself.

6 THE COURT: Well, now wait a minute. I gave you this
7 proposed charge on Thursday, and I said that we would discuss
8 it as early as Friday. You had instead the entire weekend,
9 it's now Monday. In a charging conference, the Court hears
10 from each side as to what words they want to change or add and
11 and they're just suggesting a couple of sentences changed.

12 MR. DENNIS: Objection, your Honor.

13 THE COURT: I'll read it to you again if you'd like.

14 MR. DENNIS: I'd like to make an objection to what you
15 just stated, your Honor.

16 My objection is this case has been sitting before the
17 Department of Justice since October -- at least since
18 October 28th, 2020, these instructions and the charges that
19 they wanted to -- and the elements that they wanted to prove,
20 they've had two years. They also had these changes since
21 Thursday, but they also knew about the charges more than a year
22 before they came before me. My life is -- I'm the one who is
23 going to serve in prison. I don't think it's unreasonable for
24 me to say I'd like to read the language myself since I'm the
25 one facing imprisonment.

MAHGDEN1

1 THE COURT: You have the language that the Court
2 proposed.

3 MR. DENNIS: If that language stays, I'm fine with it,
4 your Honor.

5 THE COURT: So I think what you are saying, forgive
6 me -- because I know you feel agrieved -- but I think what you
7 are saying is you don't agree with their proposed changes.

8 MR. DENNIS: What I'm saying is I'd like to read
9 exactly the changes.

10 THE COURT: I'll read to you the very few changes they
11 suggested.

12 MR. DENNIS: Excuse me, your Honor, is there a reason
13 why I can't read them myself? I think the court reporter --
14 would you ask the court reporter --

15 THE COURT: If you want to copy them down as I read
16 them, I'll read them slowly.

17 So with respect to the paragraph that begins, "The
18 second element is that the defendant did so with the intent to
19 harass or intimidate his alleged victim." They have no problem
20 with that wording. Then the next sentence is to harass or, as
21 some would say, harass, but we won't get into that distinction,
22 means to cause worry or distress. They have no problem with
23 that. The third sentence, and the one they have a problem with
24 is To "intimidate means to threaten with bodily harm either the
25 victim or the victim's family." They want to substitute for

MAHGDEN1

1 that sentence "To intimidate means to frighten or to seek to
2 cause a" --

3 MR. DENNIS: Can you go slowly, your Honor, please.

4 THE COURT: Yes.

5 To intimidate means to frighten.

6 MR. DENNIS: Frighten -- I'll say the words as I'm
7 writing them down.

8 THE COURT: Or to seek.

9 MR. DENNIS: Or to seek.

10 THE COURT: To cause a victim.

11 MR. DENNIS: To cause a victim.

12 THE COURT: To act in a manner.

13 MR. DENNIS: To act in a manner.

14 THE COURT: That the victim.

15 MR. DENNIS: That the victim.

16 THE COURT: Would not have otherwise intended.

17 MR. DENNIS: Would not have otherwise intended.

18 THE COURT: So that's their proposed change.

19 MR. DENNIS: Intended -- so to repeat, just to make
20 sure -- to intimidate means to frighten or to seek to cause a
21 victim to act in a manner that the victim would not otherwise.

22 THE COURT: Would not have otherwise intended.

23 MR. DENNIS: Would not have otherwise intended.

24 THE COURT: Yes.

25 MS. KUSHNER: Your Honor, the government doesn't want

MAHGDEN1

1 to remove the Court's language to threaten. To intimidate
2 means to threaten or, and then the government's additional
3 language.

4 THE COURT: Well, in any event, let me hear from
5 Mr. Dennis.

6 MR. DENNIS: Well, I just want to make sure before I
7 respond that I have the language that is trying to be inserted
8 because it wasn't what you just read.

9 THE COURT: Mr. Dennis, do I understand that you have
10 no objection to the language the Court originally proposed?

11 MR. DENNIS: No objection to that.

12 THE COURT: So I'm inclined to deny their proposal for
13 reasons I'll get to in a minute.

14 I think that, first, this statute, to some extent
15 suffers from being vague, not unconstitutionally vague, but
16 vague in that it's not addressed to the specifics of a
17 particular case. But the instructions of law that need to be
18 addressed to what the evidence, taken most favorably, for these
19 purposes to the government, could support.

20 Now, I think to simply say to intimidate means to
21 frighten is too unparticularized for a case like this. Indeed,
22 I think there arguably would be First Amendment issues if it
23 were so liberal. And that why, given that there were specific
24 emails that the government asserted were threats of bodily
25 harm, that I substituted that. But remember that these are

MAHGDEN1

1 alternatives. So I think maybe the best way to handle this is,
2 on the first sentence, the second element, quote, the second
3 element is the defendant did so with the intent either to
4 harass or to intimidate his alleged victim, making clear that
5 the government doesn't have to show both; they can show one or
6 the other.

7 Then I would substitute in the next sentence, to
8 harass means to frighten or to cause worry or distress. And
9 then I would leave the second sentence as I originally had it.
10 To intimidate, means to threaten with bodily harm either the
11 victim or the victim's family. I think that fits the
12 particulars of this case and avoids any First Amendment
13 objection.

14 So going on to Mr. Dennis, to the only other change
15 the government suggested --

16 MR. DENNIS: Your Honor, I would like to --

17 THE COURT: Yes.

18 MR. DENNIS: I would like to now see the language that
19 the Court is suggesting.

20 THE COURT: No. But I will read it to you again.

21 MR. DENNIS: Read it and then give me a moment to
22 think about it.

23 THE COURT: Okay. As I have indicated, this was --

24 MR. DENNIS: The government had this case for two
25 years.

MAHGDEN1

1 THE COURT: I'm going to give you a moment to think
2 about it.

3 So it now reads, the second element is that the
4 defendant did so with the intent either to harass --

5 MR. DENNIS: The second element is that the defendant
6 did so --

7 THE COURT: With the intent -- if you look -- it is
8 the exact same words I have there, I've just added the word
9 either.

10 MR. DENNIS: Either.

11 THE COURT: To harass.

12 MR. DENNIS: To harass.

13 THE COURT: Or to intimidate, that was to make is
14 grammatically correct, his alleged victims.

15 It's the same words that I had a minute ago that you
16 agreed to, except I added either and the word to.

17 Now, the more substantive change, slight substantive
18 change is, to harass means to frighten -- this is the second
19 sentence -- so I'm adding the word frighten or to cause worry
20 or distress. So the only words being added there --

21 MR. DENNIS: Each word has to be so important, I'm
22 sure.

23 THE COURT: Please, just hear what the changes are
24 that I'm now proposing.

25 To harass means to frighten or to cause worry or

MAHGDEN1

1 distress and I've only added the words frighten or to. And
2 I've accepted your suggestion that I not change the next
3 sentence to the government's suggestion, rather leave it the
4 way I originally had it, which you said was fine with you. To
5 intimidate means to threaten with bodily harm, et cetera.

6 So the only changes I have made is to the grammatical
7 change in the first sentence, so I added either and to. And
8 then the second sentence to add the word frighten.

9 Any objection?

10 MR. DENNIS: Yes, I do object.

11 THE COURT: On what ground?

12 MR. DENNIS: On several grounds, your Honor. The
13 first ground meaning that by adding one word means that there's
14 one other way that could lead to a conviction of me at this
15 point. So it's just not one word, it's a word that is very
16 powerful. So as opposed to --

17 THE COURT: It's supported by the statutory language.

18 MR. DENNIS: Well, then if --

19 THE COURT: I'm giving the government less than
20 they're entitled to under the statute only because I feel we
21 need to make these instructions closer to the evidence in this
22 case. But there's no question that to frighten is one of the
23 things prohibited by the statute.

24 MR. DENNIS: As you were pointing out, in terms of how
25 long I had this, your Honor, my other objection is this is the

MAHGDEN1

1 government's business. They've had it much longer than I have.
2 And so the issue -- you're saying why didn't I review it; why
3 didn't this come up sooner?

4 THE COURT: I understand your objection. It's
5 overruled.

6 So the only other change --

7 MR. DENNIS: And your Honor, my third part of my
8 objection is that, based on the draft that I received, I have
9 been making my arguments with the idea of worry -- causing
10 worry or distress, not frighten. So I've gone through this
11 whole trial thinking that the standard was that harass meant to
12 cause worry or distress --

13 THE COURT: What did you think intimidation meant?

14 MR. DENNIS: All I know is the words you just changed.
15 If the words changed, you just added something that wasn't
16 there during the course of the trial.

17 THE COURT: No, no. That's completely false.

18 MR. DENNIS: The word frighten was not in this charge.

19 THE COURT: The record should reflect that the Court
20 has not sought to contradict every inaccurate statement made by
21 Mr. Dennis since that would take hours to do.

22 MR. DENNIS: Objection.

23 THE COURT: Duly noted.

24 Now, if you would prefer to have me put the word
25 frighten in the sentence on intimidate, I'm fine with that.

MAHGDEN1

1 But on the --

2 MR. DENNIS: Your Honor, to make things easy and
3 move -- what I'm requesting the Court is that the language that
4 was delivered on Thursday, this language remain the same.

5 THE COURT: Let me think about that for a minute.

6 THE DEPUTY CLERK: All jurors present.

7 THE COURT: The only other change, if you want to
8 write it down, Mr. Dennis, that the government is suggesting
9 that we make -- I think you may have already written it down --
10 was under the third element.

11 MR. DENNIS: No, I have not written that down yet,
12 please.

13 THE COURT: No, the same page.

14 MR. DENNIS: I'm just trying to get -- go ahead, your
15 Honor. I'm ready, your Honor.

16 THE COURT: The third element of this is that this
17 course of conduct caused, and then they would add attempted to
18 cause, which is straight out of the statute. And they would
19 continue the rest exactly the way I had it. So the only thing
20 they're adding there is attempted to cause.

21 Any objection?

22 MR. DENNIS: Yes, your Honor. I object. I object.
23 As I said, as a pro se defendant, with a government that has
24 done this many times, I think -- I based my defense on the
25 language that was here, that was given to me, and I object to

MAHGDEN1

1 any changes because any changes are meant to help the
2 government to convict me.

3 THE COURT: It was given to you as a draft. It says
4 at the very top draft. And it was given to you on Thursday.
5 You have had your --

6 MR. DENNIS: Well, my objection --

7 THE COURT: You had already formulated your defenses
8 in your opening statement, long before this was given to you.

9 MR. DENNIS: My objection remains that any language
10 that's being changed is giving the government an advantage to
11 convict me. So I object. I think it makes sense.

12 THE COURT: Duly noted.

13 So here is my final ruling on this, and then we'll
14 move on.

15 The paragraph beginning with the words "The second
16 element" will now read, "The second element is that the
17 defendant did so with the intent either to harass or to
18 intimidate his alleged victim. To harass means to cause worry
19 or distress. To intimidate means to frighten or to threaten
20 with bodily harm either the victim or the victim's family."
21 And then the rest of that paragraph remains the same.

22 Then in the next sentence, it will now read, "The
23 third element is that this course of conduct caused, attempted
24 to cause, or would be reasonably expected to cause," et cetera,
25 same as in the original.

MAHGDEN1

1 Any objection to the remaining instructions? Again,
2 these are standard instructions 11, 12 and 13. Any objections
3 from the government?

4 MS. KUSHNER: No, your Honor.

5 Just briefly, on instruction ten, the Court had left
6 certain blanks for the victims' names.

7 THE COURT: I'm sorry?

8 MS. KUSHNER: For the last two sentences --

9 THE COURT: Oh, no, I have them now in the verdict
10 form. And Count One is Mr. Cottle, Count Two is Mr. Bicks and
11 Count Three is Ms. Bostick; right?

12 MS. KUSHNER: No, your Honor. In the indictment --
13 which I know the jurors don't receive.

14 THE COURT: Who are your three victims? Who is your
15 victim in Count One?

16 MS. KUSHNER: John Bicks.

17 THE COURT: Okay. So that will be.

18 Who is your victim in Count Two?

19 MS. KUSHNER: Eric Cottle.

20 THE COURT: Who is your victim in Count Three?

21 MS. KUSHNER: Count Three we move to dismiss --

22 THE COURT: I'm sorry, it's really in the indictment
23 Count Four, but I think what will change it is instead of
24 calling it Counts One, Two and Three, why don't we say, in the
25 first charge he is charged with cyberstalking John Bicks; in

MAHGDEN1

1 the second charge, he is charged with cyberstalking Eric
2 Cottle; in the third charge, he is charged with cyberstalking
3 Calvin Bostick, and we'll conform the verdict form to that
4 language, that way we don't get into whether it's Count Three
5 or Four.

6 MS. KUSHNER: Thank you. And no other suggestions.

7 THE COURT: Anything else from the defendant?

8 MR. DENNIS: Your Honor, now we made -- I'd like to
9 just have a moment.

10 THE COURT: Take a minute.

11 Mr. Dennis, let's finish the government's witness.
12 We'll take another break, and I'll give you one more
13 opportunity to be heard on this charge.

14 MR. DENNIS: Okay, your Honor.

15 THE DEPUTY CLERK: May I bring in the jury.

16 THE COURT: Yes.

17 And let's get the witness on the stand.

18 (Continued on next page)

MAHGden1

Cobb - Direct

1 (Jury present)

2 THE COURT: Good morning, ladies and gentlemen. I
3 hope you had a good weekend, but now it's back to the salt
4 mine. So we'll continue with the witness that we were starting
5 with on Friday.

6 MS. SIMON: Thank you, your Honor.

7 Ms. Geier, can you please pull up Government
8 Exhibit 103-39, page 4, please.

9 CONTINUED DIRECT EXAMINATION

10 BY MS. SIMON:

11 Q. Agent Cobb, I just want to -- before the break, at the end
12 of last week, we were focusing on these message here in
13 Government Exhibit 103-39. Can you please read who is in the
14 from field.

15 A. Willie Dennis.

16 Q. Can you please read who is in the to field?

17 A. Cally.

18 Q. Can you please read the body of the message.

19 A. Yes.

20 Is John around? It your mouth wide open?

21 MS. SIMON: Please go to the third message on this
22 page, Ms. Geier.

23 Q. Agent Cobb, can you please read the from field, the to
24 field and then the body of the message.

25 A. Yes.

MAHGden1

Cobb - Direct

1 Willie Dennis to Cally. I am sure the conversation
2 regarding national securities issues our firm faces right now
3 bores you. Getting ready for D patrol. By the way, how long
4 have you been on Tinder?

5 Q. Thank you.

6 Turning to Exhibit 103-13.

7 MR. DENNIS: Your Honor, objection to those text
8 messages without my ability to cross-examine Cally Bostick
9 again.

10 THE COURT: You have made that objection before.

11 MR. DENNIS: Yes.

12 THE COURT: And it was overruled before. Thank you
13 for renewing it. It is still overruled.

14 BY MS. SIMON:

15 Q. Agent Cobb, can you please read the from field, the to
16 field and the body of the message.

17 A. Yes.

18 From Willie Dennis to Cally. Did you meet this guy on
19 Tinder? He has on the Timberlands. What did you have to give
20 him to do this job? Did John encourage you?

21 Q. Turning to page 4 of this exhibit.

22 Can you please read the from field, the to field and
23 the body of the message aloud of this first message.

24 A. From Willie Dennis to Cally. Two faced hypocrite. Speak.

25 Q. And then the second message.

MAHGden1

Cobb - Direct

1 A. From Willie Dennis to Cally. Murderer.

2 Q. And the same for the message on the seventh page.

3 A. From Willie Dennis to Cally. Wench... a good way to create
4 an atmosphere for someone to get killed.

5 Q. Turning to Government Exhibit 103-29.

6 Can you please read the from field, the to field and
7 the body of both of these messages.

8 A. From Willie Dennis to Cally. A selfish idiot.

9 From Willie Dennis to Cally. When I take your
10 deposition, you will be done.

11 Q. Now, turning to Government Exhibit 105-50.

12 Agent Cobb, who is in the from field of this message?

13 A. Willie Dennis.

14 Q. And who is in the to field of this message?

15 A. Cally, John Bicks, Rob Matlin and Whitney Smith.

16 Q. Can you please read the body of the message aloud.

17 A. Yes.

18 Cally, when you leave the fields this weekend, are you
19 and John getting together?

20 MR. DENNIS: Objection, your Honor.

21 Your Honor, on Friday, you described this process as
22 being the government's opportunity to summarize. I don't -- I
23 don't understand -- I don't see a summary. I just see a
24 continued testimony of Cally Bostick. I don't know how you
25 describe this as a summary.

MAHGden1

Cobb - Direct

1 THE COURT: So the government introduced a large
2 number of emails that allegedly were sent by you. They
3 questioned witnesses about some, but by no means all of those.
4 They are permitted on summary witnesses to bring to the jury's
5 attention the other emails and the commonalities, if any, of
6 those emails to particular issues in this case.

7 You can cross-examine and you can, on your summation,
8 point out to the jury -- as you already had in your
9 objection -- that some of these emails were not ones that were
10 specifically addressed by the witnesses, though others were.
11 But the government has a right to bring this overall
12 commonality to the attention of the jury.

13 Overruled.

14 Go ahead.

15 BY MS. SIMON:

16 Q. Agent Cobb, who was the sender of the message you just read
17 aloud?

18 A. Willie Dennis.

19 MS. SIMON: One moment, please, your Honor.

20 THE COURT: Yes.

21 (Conferring)

22 MS. SIMON: No further questions.

23 THE COURT: Cross-examination.

24 MR. DENNIS: Good morning, ladies and gentlemen of the
25 jury.

MAHGden1

Cobb - Cross

1 CROSS-EXAMINATION

2 BY MR. DENNIS:

3 Q. Good morning, Mr. Cobb.

4 A. Good morning.

5 Q. I just wanted to go over -- since your testimony started on
6 Friday, I want to review some of your testimony. I think, on
7 Friday, the question was asked of you -- and I just want to
8 confirm it -- are you on a particular squad. The testimony
9 shows your answer was yes. Is that correct?

10 A. Yes.

11 Q. What squad is that was the question that was presented.
12 Your answer shows, the violent crimes task force, C19. Is that
13 correct?

14 A. Yes.

15 Q. What kind of crimes do you investigate was the question.
16 Your response was, we investigate violent criminal acts, that
17 includes adult kidnappings, armed bank robberies, Hobbs Act
18 robberies, assassinations and murder for hire. Is that
19 correct?

20 A. Yes.

21 Q. Thank you.

22 Once again, this is testimony from Friday, the
23 question was, Agent Cobb, you have a binder sitting in front of
24 you, Government Exhibit 112-1 is the last document. Is that
25 binder -- I'd like to draw your attention to it. Your response

MAHGden1

Cobb - Cross

1 was okay. Is that correct?

2 A. Yes.

3 Q. Agent Cobb, what does it say at the top of the Government

4 Exhibit 112-1. Your response, it says, searched items, 519.

5 Is that correct?

6 A. Yes.

7 Q. Question then was put to you, what is this document. And

8 your response is, this is a search history for an electronic

9 device. Is that correct? Is that your response?

10 A. Yes.

11 Q. Then it says, what time period does this search history

12 cover. Your response was, it covers July, October and November

13 of 2020; is that correct?

14 A. Yes.

15 Q. Why did the search history since July -- why was it -- why

16 was not August and September covered in the search history?

17 A. That, I'm not sure, sir. I reviewed the evidence provided

18 by the case team.

19 Q. So July was covered, that's correct?

20 A. Yes.

21 Q. August was not covered, September was not covered; is that

22 correct?

23 A. Yes.

24 Q. Then October was covered and then November of 2020, okay.

25 All right.

MAHGden1

Cobb - Cross

1 So then the next question is, have you reviewed this
2 document in preparation for your testimony here today, and your
3 answer was yes. Is that correct?

4 A. Yes.

5 (Continued on next page)

MahWden2

Cobb - Cross

1 Q. So, correct me if -- in the event that in reviewing the
2 emails and the text messages, if there was anything -- I'm
3 going to withdraw that question from there.

4 OK. In your text messages -- in the material that you
5 reviewed, did you see any emails or text messages from me to
6 Cally relating to any law enforcement processes that were going
7 on?

8 A. No, sir.

9 Q. Just let me clarify, but you didn't review August and
10 September, correct?

11 A. That's correct.

12 Q. OK. Did you review or did you see any text or other, or
13 any other form of messages regarding the surveillance of me in
14 Chicago?

15 MS. SIMON: Objection, your Honor.

16 THE COURT: Sustained.

17 BY MR. DENNIS:

18 Q. In the messages that you reviewed from me to Cally, did you
19 see any messages relating to the hiring of the security firm to
20 provide protection for Cally in Chicago?

21 A. No, sir, I do not recall.

22 Q. Once again, you did not see the text messages or emails in
23 August or September?

24 A. No.

25 Q. Did you see in reviewing the text messages or emails from

MahWden2

Cobb - Cross

1 me to Cally any mention of my concern that the women in Chicago
2 were in danger?

3 MS. SIMON: Objection.

4 THE COURT: Sustained.

5 BY MR. DENNIS:

6 Q. Did you see any emails or texts from me telling Cally that
7 my life was in danger by police being --

8 THE COURT: Sustained.

9 I remind the jury that nothing that counsel says by
10 way of a question is evidence of anything.

11 MR. DENNIS: I will remind the Court that there has
12 been testimony that there had been contact between KL Gates and
13 the New York City Police Department. I will remind the Court
14 that there has been admission that's now in testimony that KL
15 Gates hired a security firm to protect Cally in Chicago.

16 THE COURT: Well, that's very kind of you to remind me
17 of that, but I think your role right now is to be asking
18 questions of the witness. Ask questions of the witness, and
19 don't testify.

20 MR. DENNIS: The Court is preventing me from asking
21 relevant questions.

22 THE COURT: No. I'm preventing you from trying to put
23 before this jury stuff that is not part of the evidence in this
24 case. But if you would do me the honor of simply putting
25 questions, that would move things along.

MahWden2

1 MR. DENNIS: Your Honor, I certainly will. Excuse me,
2 because my freedom is at risk, and I'm trying to really
3 understand what the facts are.

4 Q. Mr. Cobb, how long have you been with the FBI?

5 A. About three, three and a half years.

6 MR. DENNIS: I hope you have a wonderful career. No
7 more questions, your Honor.

8 THE WITNESS: Thank you.

9 THE COURT: Redirect.

10 MS. SIMON: No, your Honor.

11 THE COURT: Please, you may step down. Thank you very
12 much.

13 THE WITNESS: Thank you, your Honor.

14 (Witness excused)

15 THE COURT: Does the government rest?

16 MS. SIMON: Yes, your Honor.

17 THE COURT: All right. When the government rests,
18 ladies and gentlemen, I have to hear some legal issues outside
19 the presence of the jury, so we'll give you about a ten-minute
20 break right now.

21 (Continued on next page)

MahWden2

(Jury not present)

THE COURT: Please be seated.

Mr. Dennis, to help you out, at this stage, you need to make a renewed motion to dismiss the case, which you need to do to preserve your rights on appeal. I take it you move at this point to dismiss the case.

MR. DENNIS: Yes, your Honor, I do.

THE COURT: And that motion is denied.

Second, are you planning to take the stand?

MR. DENNIS: No, your Honor, I'm not.

THE COURT: All right. Third, we had finished with all of the charge except the last three charges, and I said I would give you an opportunity if you had any problems with any of those -- those are instructions 11, 12, and 13 -- to take a minute and read those and let me know if you have any objection.

By the way, while we're waiting, has the government prepared an electronic thumb drive, or the equivalent, to give to the jury with the exhibits?

MS. KUSHNER: Yes, your Honor.

THE COURT: And does it include the one defense exhibit as well?

MS. KUSHNER: We'll double-check and make sure that it does.

THE COURT: Yes. We need to have that included as

MahWden2

1 well. It was included in the index.

2 My courtroom deputy says that now that we no longer
3 have the same jury equipment that we had during the pandemic;
4 it's really much easier to just put the exhibits into
5 documentary form, and we'll wheel those in to the jury with the
6 defense exhibit and with the index.

7 MS. KUSHNER: OK, your Honor.

8 THE COURT: OK. So if you can do that, that would be
9 much appreciated.

10 MS. KUSHNER: Your Honor, one new thing in instruction
11 No. 12, it says that the Court will send in to the jury room
12 computerized versions of all the exhibits admitted into
13 evidence except for the telephones, and we didn't obviously
14 have any physical telephones.

15 THE COURT: Let me change that. Thank you for
16 catching that. We will send to the jury room all the exhibits
17 that were admitted into evidence except for the telephones,
18 which they may request if they like.

19 MR. DENNIS: Your Honor, I'd like to, with respect to
20 instruction No. 12, I'd like for the jury to also have
21 available to them in the room the transcripts of the witness
22 testimony.

23 THE COURT: No. As I point out repeatedly in the
24 instructions, if they want to ask for testimony, they can, but
25 it's not automatically sent in.

MahWden2

1 MR. DENNIS: Obviously, since I was --

2 THE COURT: Pardon?

3 It says, for example, in instruction 12, if you want
4 any of the testimony provided, that can also be done in either
5 transcript or read-back form. But please remember it's not
6 always easy to locate what you might want, so be as specific as
7 you possibly can be in requesting portions of the testimony.

8 MR. DENNIS: OK. As a *pro se* defendant who has only
9 one exhibit on file and my defense was basically relying upon
10 the testimony and the cross-examination of the witnesses, I'm
11 requesting that transcripts be made available immediately --

12 THE COURT: Yes. OK.

13 MR. DENNIS: -- for --

14 THE COURT: Duly noted. Denied.

15 Mr. Dennis, anything else?

16 MR. DENNIS: If you give me a second, your Honor. I'm
17 still reviewing it, please.

18 THE COURT: Yes.

19 By the way, I made the identical change about
20 eliminating the word "computerized" on page 4 of the
21 instructions as well.

22 MR. DENNIS: Your Honor, on instruction No. 13 --

23 THE COURT: Yes.

24 MR. DENNIS: -- if there's not unanimity, what occurs?

25 THE COURT: Excuse me?

MahWden2

1 MR. DENNIS: If there's not a unanimous decision
2 amongst the jurors, what will happen?

3 THE COURT: You will be retried, so I will set a date
4 for that if that's the verdict. They have three alternatives.
5 They either unanimously acquit, unanimously convict, or they
6 cannot reach a verdict, in which case you are retried.

7 Now, if they unanimously convict on one or two counts
8 but not on all three, then -- although it's up to the
9 government -- my guess is the government will not seek a
10 retrial on the third count if the jury is divided on it. For
11 example, I could well imagine they might convict with respect
12 to Mr. Bicks and Ms. Bostick and not be able to reach a verdict
13 on Mr. Cottle. That's just one possibility. In that case,
14 theoretically, the government could retry you on the count
15 against Mr. Cottle, but my guess is they would not do that in
16 that situation.

17 Anything else?

18 MR. DENNIS: And these instructions will be read to
19 the jury at what point?

20 THE COURT: As soon as the summations are over but
21 before they start their deliberations.

22 MR. DENNIS: No other comment.

23 THE COURT: All right.

24 MR. DENNIS: May I use the restroom, your Honor?

25 THE COURT: Yes, go ahead.

MahWden2

1 MR. DENNIS: Thank you.

2 THE COURT: We'll give the government a five-minute
3 break as well. And as soon as the break is over, we'll start
4 summations.

5 MS. RAVENER: Your Honor, could we take an opportunity
6 to get set up?

7 THE COURT: All right. We'll give you a ten-minute
8 break.

9 MS. RAVENER: Thank you.

10 (Recess)

11 THE COURT: All right. Let's bring in the jury.

12 How much of your allotted time do you plan to use on
13 your first summation?

14 MS. KUSHNER: About an hour.

15 (Jury present)

16 THE COURT: Please be seated.

17 Ladies and gentlemen, the evidence is now before you.
18 The defendant has chosen not to present any evidence. That is
19 his constitutional right. The burden of proof always is on the
20 government, and you cannot infer anything negative with regard
21 to the defendant from the fact that he chose not to put on any
22 evidence. He has a constitutional right to put the government
23 to its proof, and that's how he has chosen to proceed.

24 We now come to closing arguments of the parties.
25 First, I want to remind you, as I did before opening

MahWden2

Summation - Ms. Kushner

1 statements, that nothing that counsel says is itself evidence.
2 The evidence is now before you. It consists of the testimony
3 and the exhibits.

4 So you may ask why do we have closing arguments?

5 The answer is that there is a fair amount of evidence,
6 a fair amount of exhibits, and it may be useful to you to hear
7 what counsel for both sides think the evidence shows or fails
8 to show, as the case may be. So this is their opportunity to
9 put their best interpretation on the evidence favorable to
10 their respective positions.

11 Because the government bears the burden of proof, they
12 have both an opening summation and a rebuttal summation. Each
13 side is given 90 minutes. The government will use about 60
14 minutes for their initial summation. The defendant will then
15 have up to 90 minutes for his summation, and then the
16 government will have up to 30 minutes for their rebuttal
17 summation. After all that is done, I will give you my
18 instructions of law, and then the case will be yours to begin
19 your deliberations.

20 Let's start with the government's beginning summation.

21 MS. KUSHNER: In 2019 and 2020, this man, Willie
22 Dennis, turned words into weapons to intimidate and harass his
23 former colleagues, including Eric Cottle, John Bicks, and
24 Calvina Bostick. The defendant disrupted the lives of his
25 victims, and because the defendant had worked with and knew his

MahWden2

Summation - Ms. Kushner

1 victims, he knew exactly how to strike at the heart of what
2 they cared about most. The defendant scared and humiliated
3 Eric Cottle at a professional conference with their mutual
4 business contacts. The defendant threatened John Bicks's
5 family, his children. He threatened to go to their home, and
6 he threatened to smear John Bicks's professional reputation.
7 And the defendant threatened Calvin Bostick, a young woman
8 partner who worked her way up through the ranks. The defendant
9 told her that she had to stop practicing in New York; that he
10 was going to follow her; that he wanted her to sleep with one
11 eye open. And he also tried to smear her hard-earned
12 reputation and career.

13 Let's be clear. The defendant's texts were not about
14 some business dispute. They weren't about tough talk among
15 fierce lawyers. His messages weren't part of any conversation.
16 They were one-sided attacks. His texts spewed grotesque lies,
17 demeaning names, and threats of violence against his victims.
18 And whether through direct threats or cryptic messages, the
19 defendant succeeded in upending his victims' lives. These
20 victims lived in a constant state of worry, fear, anxiety.
21 They changed how they commuted to work. They enhanced security
22 around their home. They changed their pattern of living. That
23 is why we are here today, and it is time to hold the defendant
24 accountable for threatening his colleagues, for sending them
25 terrifying, vile messages, for instilling fear and anxiety in

MahWden2

Summation - Ms. Kushner

1 them, people who had simply tried to work alongside him.

2 Now, over the last few days, you've seen and you've
3 heard a lot of evidence. You heard from the victims
4 themselves. You saw them take that stand and face the man who
5 had sent those threatening messages to them. They talked about
6 those messages with you. They told you exactly how those
7 messages made them feel -- scared, terrified, concerned,
8 anxious.

9 You saw a lot of electronic evidence in this case as
10 well. You saw many of the emails and text messages the
11 defendant sent. You saw the data from the defendant's own
12 phone that showed his search history, a search history in 2020
13 that almost exclusively had to do with searching about K&L
14 Gates and its attorneys. You also saw the data from the
15 defendant's own phone that showed you each text thread he
16 created for a victim and exactly how many texts he sent on that
17 text thread. You can go back. You can look at all those
18 exhibits, and we'll talk about those in a moment.

19 Ladies and gentlemen, this is the government's
20 summation. It's the government's opportunity to explain how
21 all of that evidence fits together, to explain how it proves
22 beyond a reasonable doubt that Willie Dennis is guilty of
23 cyberstalking.

24 So here's what we're going to cover in the summation:

25 First, I'm going to talk briefly about the charges

MahWden2

Summation - Ms. Kushner

1 against the defendant, and as you know, Judge Rakoff will give
2 you, and has given you, detailed instructions on the law. And
3 what he says governs. You must follow the instructions that he
4 gives you. But for now, just to put the evidence into context,
5 I'm going to briefly go over the elements of the cyberstalking
6 charges, and then I'm going to explain how the evidence that
7 you've seen and you've heard proves beyond a reasonable doubt
8 that the defendant is guilty of the crimes with which he is
9 charged.

10 I'll explain how the defendant's text messages and
11 emails caused each victim substantial emotional distress, and
12 then I'll explain how you know that the defendant's intent in
13 sending those messages was to harass and intimidate his
14 victims.

15 Now, the defendant is charged with cyberstalking, with
16 three counts, one for each victim you saw and you heard: Eric
17 Cottle, John Bicks, and Calvina Bostick.

18 The elements of cyberstalking are pretty simple. You
19 have to find that the defendant sent two or more text messages
20 or emails with the intent to harass or to intimidate and that
21 the defendant caused or attempted to cause or would be
22 reasonably expected to cause substantial emotional distress.

23 And in addition, the government has to prove by a
24 preponderance of the evidence that venue is proper -- meaning
25 the case was properly brought -- here in the Southern District

MahWden2

Summation - Ms. Kushner

1 of New York, which includes all of Manhattan.

2 Now, I'm not going to spend a lot of time on the first
3 element, because you know it's been met. That's because
4 there's no dispute that the defendant sent way more than two
5 text messages or emails to each victim in this case.

6 Eric Cottle received 23 back-to-back text messages in
7 one night. Eric Cottle blocked the defendant's number after
8 that, but even then, the defendant continued to try to send him
9 emails and texts.

10 John Bicks, you know, got thousands of texts from the
11 defendant -- 4,785 text messages, to be clear -- and that's
12 just from late 2019 to early 2021.

13 And similarly, Calvin Bostick received over 5,000
14 messages between late 2019 and early 2021.

15 As I expect Judge Rakoff will instruct you, just two
16 messages is enough for you to find that the defendant engaged
17 in a course of conduct to harass or intimidate a victim. In
18 other words, if the defendant sent only two messages but those
19 messages were intended to harass or to intimidate his victims
20 and caused or attempted to cause or be reasonably expected to
21 cause his victims substantial emotional distress, that is
22 enough. You can find from single days alone in this case that
23 the defendant cyberstalked his victim.

24 You also know that venue is proper here. You heard
25 each victim testify that they saw or received at least one

MahWden2

Summation - Ms. Kushner

1 harassing text or email that the defendant sent them while they
2 were physically present at K&L Gates's offices in New York,
3 here in Manhattan. And you also heard Calvin Bostick explain
4 that she received many of the defendant's text messages while
5 she was home at her apartment in Harlem, which, of course, is
6 also in Manhattan.

7 So let's focus on the third element -- whether the
8 victims suffered substantial emotional distress. And that term
9 means exactly what it sounds like.

10 You know that the defendant's course of conduct -- his
11 texts, his emails -- caused each victim in this case
12 substantial emotional distress. You saw the emotions on the
13 victims themselves and you heard the words that they testified
14 to.

15 Eric Cottle told you he was concerned for his own
16 safety. He was concerned that someone, the defendant, would
17 carry out on his actions and his threats. You heard Eric
18 Cottle explain to you how serious he took this, the threats,
19 the 23 emails the defendant sent him in one night, backed up by
20 the defendant physically approaching and getting in the face of
21 Eric Cottle. You heard that after that event how Eric Cottle
22 was concerned that the defendant might show up at an awards
23 ceremony for Calvin Bostick; that he wouldn't feel safe going
24 to that conference unless security was there. As he told you,
25 that's not normal. It's not normal to think you need security

MahWden2

Summation - Ms. Kushner

1 to attend with you a professional event.

2 You also know that John Bicks suffered substantial
3 emotional distress. He told you that the defendant's messages
4 made him feel alarmed, scared, terrified. He testified how he
5 felt when the defendant sent him messages about his own
6 children -- this one, for example, Government Exhibit 801,
7 where the defendant says I'm going to come to your house to
8 water your plants and your sons can help me. John Bicks was
9 afraid that the defendant was actually going to go to his own
10 home to try to interact with John Bicks's children and his
11 wife. And you also heard John Bicks testify about the violent
12 biblical scriptures that the defendant quoted to him in
13 messages, how scared he was by those messages, how afraid he
14 was of what the defendant might do next.

15 And finally, you saw and you heard from Calvina
16 Bostick. She told you about the substantial emotional distress
17 that she suffered from as a result of the defendant's own
18 words. She told you she felt threatened, vulnerable, fearful.
19 She was frightened. The defendant made her feel like she was
20 in danger. She felt attacked. She was totally freaked out.
21 Ms. Bostick told you how the messages also caused her anxiety.
22 She couldn't sleep. She couldn't concentrate.

23 So you know, based on all the testimony from the
24 victims, that they, in fact, suffered substantial emotional
25 distress.

MahWden2

Summation - Ms. Kushner

1 But how else do you know that the victims suffered
2 substantial emotional distress?

3 You know this from the actions that they took in
4 response to the defendant's ongoing messages.

5 What did Mr. Cottle do?

6 He left a professional conference early. He went back
7 home.

8 And why did he do that?

9 Because of the 23 text messages the defendant sent him
10 back to back to back, followed by the defendant's in-person,
11 aggressive behavior. And you know that immediately after this
12 encounter, Eric Cottle blocked the defendant's text messages.

13 Why?

14 Because he didn't want to be harassed anymore.

15 What else did Eric Cottle do?

16 He changed his entire daily routine. He told you how
17 scared he was commuting to work on the subway. He stopped
18 traveling with his headphones in. He was very vigilant of
19 exactly where he stood on the train platform. He was aware of
20 who got on and who got off the train. He made sure to wear
21 shoes that had rubber soles so he could easily run and not slip
22 if the defendant approached him. He heightened his vigilance
23 around the office, what entrance or exit to take, whether it
24 was even worth stepping outside to get lunch that day.

25 These are steps that someone takes because they're in

MahWden2

Summation - Ms. Kushner

1 distress, because they're worried, because they're frightened.
2 And Eric Cottle took all these steps because that's exactly how
3 he felt. He suffered substantial emotional distress.

4 We know that John Bicks suffered substantial emotional
5 distress from the steps he took as well.

6 What did Mr. Bicks do?

7 He sat down with his children. He showed his children
8 a photo of the defendant and warned them to call 911 if they
9 ever saw the defendant approaching their home. He had to speak
10 with his elderly parents about the threats the defendant was
11 making. John Bicks moved his parking garage at work. He moved
12 it closer to the office to minimize the outside time he would
13 spend walking from his car to the office building. In the home
14 he and his family had lived in for 17 years, he started putting
15 the alarm on every night for the first time. And he upgraded
16 his security system. He added cameras. And on the nights that
17 the defendant was particularly active in his messages, John
18 Bicks slept with a loaded gun next to his bed to protect
19 himself, his kids, and his wife, something he had never done
20 before. Those are also all steps that someone takes because
21 they are suffering substantial emotional distress.

22 And what did Calvin Bostick do?

23 You know that she had to take serious measures to
24 protect herself from the defendant. She was concerned about
25 workplace violence. She thought that the firm should be

MahWden2

Summation - Ms. Kushner

1 holding active shooter drills so that they could protect
2 themselves from the defendant. She also had to change her
3 daily routine. She had to have security stationed outside the
4 door of her apartment, and when she left the apartment,
5 security had to go with her. She didn't leave the apartment
6 unless she absolutely had to. She stopped going regularly for
7 her morning jogs, fearful that the defendant might approach
8 her. She became a recluse. And ultimately, in September of
9 2020, Ms. Bostick not only moved out of New York City, she
10 moved to a completely different state, in an entirely separate
11 region of the country. That's because, even with security
12 outside of her door, she couldn't get comfortable. She was on
13 edge. She didn't feel safe. So she moved.

14 In November of 2020, when Calvin Bostick believed
15 that the defendant was no longer in New York, she moved back to
16 New York City.

17 But what did she have to do to make sure that she was
18 safe and felt safe?

19 She had to move out of her apartment that she loved of
20 14 years in Harlem and move to a completely different
21 neighborhood, somewhere where her address wouldn't be public,
22 where the defendant couldn't easily find her. And that's what
23 she did in January of 2021.

24 She did all those things only because of the
25 defendant's messages to her and how fearful they made her.

MahWden2

Summation - Ms. Kushner

1 So based on the victims' testimony about how they felt
2 and what they did in response to the defendant's messages, you
3 know that each of them actually suffered substantial emotional
4 distress. You saw the victims for yourselves. You saw their
5 pain.

6 Now, these victims were not exaggerating. They told
7 you that their relationship with the defendant had once been
8 collegial. They worked together. They were even friendly.
9 That's what made it all the more shocking that the defendant
10 turned on them and started sending these terrifying messages.

11 Now, based on the defendant's opening statement and
12 some of his cross-examination in this case, I expect the
13 defendant may argue that his victims were not actually scared
14 of him; that they were used to tough talk among fierce lawyers,
15 or that there's some context that these text messages need to
16 be understood in.

17 Now, to be clear, and as Judge Rakoff will instruct
18 you, the defense has no burden. It is the government's burden
19 to prove beyond a reasonable doubt each element, and we embrace
20 that burden. But when the defendant makes certain arguments,
21 you are entitled to scrutinize them and to ask yourselves, does
22 this make any sense whatsoever?

23 And you know any argument that these text messages
24 were about a business dispute or just reflective of tough talk
25 among lawyers is wrong. You know that for all the reasons I

MahWden2

Summation - Ms. Kushner

1 just discussed, for all the reasons the victims told you when
2 they were on the stand. There's no context that would justify
3 the messages the defendant sent his former colleagues, the
4 direct threats, but also harassing messages, accusing them of
5 having affairs with each other, accusing Calvin Bostick of
6 trolling on Tinder for men, and, of course, telling John Bicks
7 and Calvin Bostick that they were evildoers who were going to
8 become biblical symbols.

9 In no universe could these messages, these many
10 messages, be part of any acceptable way to communicate with
11 your former colleagues. But even if these victims had
12 particularly thick skin or were used to profane language, that
13 wouldn't matter. It wouldn't matter because, as I expect Judge
14 Rakoff will instruct you, the defendant can also be found
15 guilty of cyberstalking if his course of conduct attempted to
16 cause or would be reasonably expected to cause the victims
17 substantial emotional distress. In other words, you don't even
18 have to find that the victims themselves suffered substantial
19 emotional distress. You can simply find that what the
20 defendant did and said would have reasonably caused them to
21 suffer in that way. And I think you'll agree that the sheer
22 number of messages the defendant sent each victim would be
23 reasonably expected to cause them substantial emotional
24 distress or that the contents of the messages would be
25 reasonably expected to cause them substantial emotional

MahWden2

Summation - Ms. Kushner

1 distress. So you can find that that element is met on that
2 basis too.

3 So what is left?

4 The only question you really have to decide is whether
5 the defendant had the intent to harass and intimidate his
6 victims.

7 Ladies and gentlemen, you know the answer to that.
8 You know the defendant's intent was to harass and to
9 intimidate.

10 And how do you know that?

11 There are multiple ways. You know that from the sheer
12 number of text messages. You know it from the content of the
13 messages themselves. You know it from the fact the defendant
14 continued to message his victims despite receiving multiple
15 warnings to stop. You know it from the defendant's physical
16 actions, and you know it from the defendant's own words. So
17 let's go through these.

18 The sheer number of messages shows the defendant's
19 intent. Over one night, Mr. Cottle received 23 back-to-back
20 text messages -- in the course of a single night. There's no
21 benign reason for sending someone back-to-back messages like
22 that. It's to harass and to intimidate. The defendant ended
23 this text rant with the words, "I will find you." And then lo
24 and behold, the next morning, the defendant did find Eric
25 Cottle. He approached him. He got aggressive with him. He

MahWden2

Summation - Ms. Kushner

1 scared him. He scared him so much that Eric left the
2 conference early and blocked the defendant's messages. So you
3 know the defendant's tactics succeeded.

4 You also know from Jeff Maletta that in the immediate
5 days following that event, the defendant tried to email Eric
6 Cottle back to back emails. You saw one of the emails the
7 defendant sent Eric Cottle -- this one, at Government Exhibit
8 207-9, which reads, "Also, Eric, if you find this email
9 menacing as Mr. Tea," the deputy general counsel, "has
10 suggested you do, please let me know. You can tell me. Best,
11 Willie."

12 So this message shows you the defendant was explicitly
13 informed that the messages he had just sent Eric Cottle and the
14 emails that came in the ensuing days were menacing to Eric
15 Cottle.

16 And yet what did the defendant continue to do after
17 that?

18 He continued to send menacing emails and text
19 messages.

20 And as for John Bicks and Calvina Bostick, you know
21 the defendant sent them hundreds upon hundreds of text messages
22 in 2020 alone, back to back, 24/7, all hours of the day and
23 night. And let's look into some of these numbers.

24 Here, for example, which summarizes the charts that
25 FBI Examiner Flatley walked you through, which are Government

MahWden2

Summation - Ms. Kushner

1 Exhibits 120-1 through 120-7 and 120-9 and -10, the text
2 threads, you can see here that in late August and early
3 September of 2020, how many messages the defendant was sending
4 John Bicks and Calvin Bostick on a daily basis. Let's look at
5 September 1, for example, 2020. That day alone, the defendant
6 sent Calvin Bostick more than 140 text messages and nearly 120
7 text messages to John Bicks. And similarly, in October,
8 hundreds of messages -- on October 5, 180 text messages to
9 Calvin Bostick; on October 10, over 80 messages to John Bicks.
10 And the conduct continued in November as well. On November 27,
11 2020, for example, the defendant sent each John Bicks and
12 Calvin almost a hundred text messages.

13 Ms. Bostick also testified that the mere series of
14 text messages made them harassing and intimidating. And the
15 defendant's intent here is even more transparent given the fact
16 that not one victim responded to a single text message or email
17 the defendant sent them after his termination in May of 2019.
18 So the defendant knew these messages were unwanted. There was
19 no conversation happening, but he continued to bombard his
20 victims with message after message.

21 Now, of course, the blatantly disturbing content of
22 the messages themselves shows you the defendant's intent was to
23 harass and intimidate his victims.

24 (Continued on next page)
25

MAHGden3

Summation - Ms. Kushner

1 MS. KUSHNER: We won't go through them all, there are
2 many, but I'll highlight a few right now of some of the
3 harassing messages the defendant sent each victim. This one,
4 for example, at Government Exhibit 109-1, where the defendant
5 texted Cottle, I would not spin the wheel again if I were you.
6 That's frightening. It's harassing. Same with the 23 messages
7 the defendant sent Cottle in June of 2019.

8 And the defendant sent harassing messages to John
9 Bicks as well. Here, Government Exhibit 102-2, when we are
10 done, you are going to wish you had never met me. Or this one
11 to John Bicks, you are a bad person that deserves to be
12 severely punished. And that's Government Exhibit 102-8.

13 We could go on. Messages like you are going to get
14 yours and you need to pay the most. These are the types of
15 messages the defendant was sending John Bicks over and over and
16 over again.

17 And the messages the defendant sent about John Bicks'
18 children and his wife. This message here, sent on May 27th,
19 2020 in the middle of the night; and John, what is your wife's
20 name, save me some research time. That's Government
21 Exhibit 104-1. And this message on August 28th when the
22 defendant told John Bicks, kids are in. These are threats to
23 involve family members in what the defendant wants you to think
24 was a simple business dispute. You know that's not true. John
25 Bicks testified how terrified the messages, especially those

MAHGden3

Summation - Ms. Kushner

1 invoking his children or his wife, made him feel. He was
2 scared to death.

3 And of course, the many messages in which the
4 defendant threatened John Bicks and Calvin Bostick that they
5 were going to become biblical symbols. We'll get back to those
6 in a moment.

7 The messages to Calvin Bostick were just as harassing
8 and intimidating. He texted her, you need to practice outside
9 of New York. Because if you stay in New York, I am going to
10 follow you. And that's Government Exhibit 103-14.

11 The defendant also told Calvin Bostick that he wanted
12 her to fear him. You don't have to respect the black man,
13 right. What about fear him? Ms. Bostick told you that to her
14 these messages were trying to intimidate her, that he, the
15 defendant, wanted Calvin Bostick to fear him, to be afraid.
16 And that's exactly how she felt. You know the defendant sent
17 Calvin Bostick text messages telling her to leave or else, or
18 threatening to add her to a civil lawsuit.

19 The defendant sent her threatening messages like this
20 one, do you still take the train to work. A message Calvin
21 would have received around 3:00 a.m. in the morning on
22 October 9th, 2020. And that's Government Exhibit 103-34.

23 And of course, the defendant threatened Calvin
24 Bostick with incarceration, somehow landing her in prison,
25 quote, unless I am successful getting you incarcerated. That's

MAHGden3

Summation - Ms. Kushner

1 also Government Exhibit 103-34.

2 And he sent her direct threats too. Cally, we are
3 coming for you. But Cally, sleep with one eye open, Government
4 Exhibit 107-56.

5 The defendant not only wanted to harass and intimidate
6 his victims through direct threats, he wanted them to worry and
7 to fear from other threatening messages as well. You do not
8 have to find that the defendant threatened with harm or
9 frightened his victims. I expect Judge Rakoff will instruct
10 you that it is enough if the defendant's messages caused the
11 victims worry or distress. And you know the defendant intended
12 to do those things as well.

13 So you can find the defendant guilty even if you find
14 the defendant's intent in sending the number and types of
15 messages that he did was simply to cause worry or distress in
16 each victim. That is enough.

17 I want to briefly go over some of the other harassing
18 messages that the defendant sent the victims, messages
19 threatening that they would become biblical symbols. Calvina
20 Bostick explained to you how terrified she was of these
21 messages, that she understood she was going to suffer some kind
22 of harm. What came to her mind was the crucifixion of Christ.
23 These were threats.

24 The defendant would also sometimes text both John
25 Bicks and Calvina Bostick together, threatening, telling them

MAHGden3

Summation - Ms. Kushner

1 that this is a biblical moment and anyone who refuses to see,
2 acknowledge and change will be answerable to god. He asked
3 them what do you think god is telling me to do. We are at the
4 end, so no need to lie any longer. God is truly reading all of
5 our minds during this biblical moment. We are lucky there is a
6 god and there will be deliverance. These messages were meant
7 to cause worry, distress in the victims and to frighten them.

8 Now, you also know that the defendant intended to
9 harass and intimidate his victims because he was warned that
10 his messages were doing just that. And he was directed to stop
11 multiple times. That shows you his intent.

12 I briefly want to go over the content of these types
13 of messages too, which you know about, messages in which the
14 defendant accused Calvina Bostick and John Bicks of having an
15 affair. You are lying, John Bicks, have you told your wife?
16 With a link to Calvina Bostick's bio page. Or asking Calvina,
17 I know you like married men... but in the office. Is your
18 Tinder account still active?

19 And of course, the defendant also tried to harass his
20 victims by calling them some of the most vile, demeaning names
21 you can imagine. You gutter rat piece of shit, he told John
22 Bicks. He accused John Bicks of being a racist, of being an
23 anti-Semite. He asked in a text message to John Bicks, is your
24 Klan meeting this weekend? And he called John Bicks John
25 "Bigot" Bicks for fun. You know that he also accused John of

MAHGden3

Summation - Ms. Kushner

1 having the ovens going. He sent him multiple texts about the
2 ovens, including texts in which John Bicks' Jewish partner,
3 Rob, was included on. In this message the defendant said, Rob,
4 so just march the kids into the ovens. You heard John Bicks
5 testify that his understanding of what the text messages asking
6 him if he had turned the ovens on meant. Quote, it's a
7 reference to the ovens that were used as part of the genocide
8 of Jews during the Holocaust as part of World War II.

9 Accusing someone of being a racist or a anti-Semite is
10 meant to harass someone. And that's exactly what the defendant
11 did here.

12 He sends a message accusing John Bicks of something so
13 vile, I won't even read it aloud again. It's Government
14 Exhibit 104-1.

15 And he did the same exact thing to Calvin Bostick.
16 He called her cotton head. She testified how embarrassed she
17 was. She felt that he was trying to strip her of her dignity
18 and demean her. He called her racial slurs; cotton head. Of
19 course that has a connotation to the African-Americans who were
20 enslaved in our country, and that's what he referred to her as.
21 There's no explanation or other explanation for this name. You
22 just saw Gary Cobb testify on the stand and read into the
23 record a text message from the defendant to Calvin about
24 whether she and John were going to get together after she got
25 off the plantation fields. These are not obscure. They are

MAHGden3

Summation - Ms. Kushner

1 direct and purposeful. They're meant to harass and to
2 intimidate. Cotton head wasn't the only name that the
3 defendant called Calvin Bostick. In message after message, he
4 called her biscuit head, murderer, gutter rat. Again, there is
5 only one reason to call someone these names and to send them
6 back-to-back messages; it's to intimidate and harass them.

7 You also know that the defendant tried to demean
8 Calvin Bostick and call her hard-earned reputation and career
9 into question, sending her messages like this one; cotton head,
10 you don't have to read, too many big words, not enough
11 pictures, will be tough going for you.

12 He also harassed John Bicks and Calvin Bostick by
13 insinuating that he was going to slander them publicly and try
14 to ruin their professional reputations, to undermine, as John
15 Bicks testified, my integrity or hurt me in some other way.

16 You heard Calvin Bostick testify that she was fearful
17 that the defendant was going to try to smear her name and
18 spread false statements about her, which was even more hurtful
19 to her given that the defendant had witnessed her go up through
20 the ranks as a junior associate to become a partner, that she
21 had no room to make mistakes. So the threat of harming her
22 public and professional reputation, which the defendant knew,
23 was an extremely scary thing to fear.

24 The defendant also tried to command Calvin Bostick to
25 do things, the things that he wanted. He told her speak, smart

MAHGden3

Summation - Ms. Kushner

1 ass. Calvin Bostick testified she felt that these messages
2 were trying to exert some type of control or power over her,
3 which you know they were. He also told her to leave New York,
4 to stop practicing here, to get up and start packing. And the
5 defendant accomplished his goal. Calvin Bostick did have to
6 move, she did have to leave New York, she did have to walk away
7 from her colleagues and her profession that is here because of
8 the defendant. You can see some of these messages at
9 Government Exhibit 103-20.

10 So as I mentioned earlier, you also know the
11 defendant's intent because of the cease-and-desist warnings he
12 received and his refusal to abide by them. You know, for
13 example, in January of 2019, Jeff Maletta emailed Willie Dennis
14 telling Willie, I have become aware that despite repeated
15 requests to stop, you are once again sending multiple emails to
16 partners around the firm. Jeff told Willie that the emails
17 have false allegations. Jeff directed the defendant to stop
18 immediately. He told the defendant in plain terms, at a
19 minimum, this amounts to harassment. The defendant knew the
20 messages he was sending were harassing.

21 Even after that January 2019 warning, which was not
22 the first warning. You know the defendant continued to message
23 the victims. And so in September of 2019, the law firm, yet
24 again, sent the defendant a cease-and-desist letter, which you
25 know the defendant received because it was found in all four

MAHGden3

Summation - Ms. Kushner

1 inboxes of his various personal Gmail accounts. The letter
2 again spelled out exactly what the messages were doing to its
3 victims. You have been notified repeatedly that your
4 communications are offensive, menacing, they are unwelcome.
5 They must stop. He was told in plain terms, there's no doubt
6 that your conduct constitutes harassment and menacing.

7 Did the defendant stop after this message? No. His
8 conduct escalated. Some of the most vile, terrifying, numerous
9 messages that he sent came after this. He persisted for more
10 than a year after this. His goal in ignoring these warnings
11 and to keep on going was to intimidate and harass his victims.

12 Now, how else do you know that the defendant's intent
13 was to intimidate and to harass. You know it from the
14 defendant's physical actions. You know it by the way that the
15 defendant approached Eric Cottle at that conference in June of
16 2019, that he made Eric Cottle concerned that there was no
17 security in the place, that it was going further than just
18 annoying Eric Cottle. It was scaring him. He had to leave and
19 get out of here.

20 Finally, you know the defendant's intent because of
21 his own words. He told the victims what his intent was. In
22 the summer of 2019, the defendant told Calvina Bostick in a
23 deli that he was going to handle his grievances with the firm
24 his way. And what was that way? As Ms. Bostick testified,
25 it's a way that wasn't legal. In other words, he didn't intend

MAHGden3

Summation - Ms. Kushner

1 to do things legally. And he didn't. He carried out his own
2 campaign of intimidation and harassment.

3 He also told John Bicks and Calvin Bostick in a text
4 message, quote, everything is intentional. Everything is
5 intentional. There's no mistake in what the defendant's intent
6 was here. The evidence of his intent is overwhelming. The
7 defendant knew exactly what he was doing at every step, with
8 every message. The timing of them, the number of them, it was
9 all intentional.

10 And ladies and gentlemen, you know the defendant's
11 conduct has had lasting impact and effect on the victims. You
12 saw Calvin Bostick on the stand; you saw those tears, you saw
13 her crying, you saw how painful it was for her to be here. You
14 heard Mr. Bicks testify how scared he still is to this day that
15 the defendant might continue the conduct he put the victims
16 through in 2019 and 2020.

17 So ladies and gentlemen, at the end of the day, this
18 is not a close case. You know from the evidence and from your
19 common sense that the defendant, Willie Dennis, intentionally
20 sent text messages and emails to Eric Cottle, John Bicks and
21 Calvin Bostick to harass and intimidate them and that he
22 caused them substantial emotional distress. Those victims have
23 suffered at the hands of the defendant. Hold the defendant
24 accountable. Return the only verdict that is consistent with
25 the evidence, with the law and your common sense. Find Willie

MAHGden3

Summation - Ms. Kushner

1 Dennis guilty.

2 THE COURT: Thank you very much.

3 Now we'll hear from the defendant.

4 MR. DENNIS: Your Honor, could we please move the
5 podium so I could face my peers, as we did in the opening
6 statements. The opening statements, we were allowed to stand
7 in front of the jury.

8 Can we have the podium moved?

9 THE COURT: I'm sorry. You want to move that up?

10 MR. DENNIS: Yeah.

11 THE COURT: Go ahead.

12 MR. DENNIS: Your Honor, may I take a two-minute
13 restroom break while they're doing it.

14 THE COURT: Ladies and gentlemen, we'll give you a
15 ten-minute break. And then we'll resume.

16 (Jury excused)

17 (Continued on next page)

MAHGden3

1 (Jury not present)

2 THE COURT: I'll see you in ten minutes.

3 (Recess)

4 (Continued on next page)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

MAHGden3

Summation - Mr. Dennis

1 (Jury present)

2 THE COURT: Mr. Dennis.

3 MR. DENNIS: Good morning, ladies and gentlemen of the
4 jury. Good morning again.

5 Let me thank you again, each one of you, for your care
6 and attention in observing these proceedings, which will
7 determine the outcome of my life and the lives of my children.
8 I know it's been a -- you have gotten a lot of information over
9 a number of days, and I would periodically look up and I
10 could -- you know, I could see sometimes when I had the
11 witnesses -- the special agents testifying and just detail
12 after detail after detail, it was hard for me to follow, and
13 I'm the one in jeopardy. So I thank you to the extent that you
14 made the effort to follow it yourselves. Hopefully -- this is
15 my only chance to argue for my freedom, my only chance --

16 MS. SIMON: Objection, your Honor.

17 MR. DENNIS: My only chance --

18 THE COURT: Just --

19 MR. DENNIS: We're going to have a long --

20 THE COURT: I think we should minimize the objections,
21 given that Mr. Dennis is just proceeding.

22 But I do want to remind the jury that the question of
23 punishment is for the Court, not for the jury. Your job is to
24 determine whether he is guilty or not of the charges, and I
25 determine what the sentence should be, if any.

MAHGden3

Summation - Mr. Dennis

1 Go ahead.

2 MR. DENNIS: This is my only chance to tell you why
3 the prosecution did not prove its case within a reasonable
4 doubt. I'm looking each one of you in the eye and telling you
5 I did not commit the crime that they're -- or the crimes that
6 they're accusing me of.

7 As we begin, I want to go back to my opening statement
8 that I discussed where I talked about, I think, that -- this is
9 a process of -- that goes on in this country of justice, and
10 it's a group effort. It's an effort of the prosecution, effort
11 of the Court, my effort and the jury. You guys bring -- you
12 bring the value to the system. You bring what I call the
13 common sense to the situation.

14 The prosecution just told you that I had to go to
15 prison because it was my intention to intimidate and cause fear
16 for physical safety to my business colleagues when I sent
17 business emails. After those business emails, which -- if you
18 may recall from the record -- and one of the things I'm going
19 to ask each one of you, my record of -- what I'm going to ask
20 you to rely upon is the witness testimonies, what they said on
21 the stand. So when you are in the jury room, I'm going to ask
22 you to immediately ask for the transcripts so you have the
23 testimony in front of you.

24 What we saw was, after I sent those emails, after Jeff
25 Maletta came to visit me in New York in November of 2018, there

MAHGden3

Summation - Mr. Dennis

1 were attacks on my family, attacks on my career and attacks on
2 my compensation.

3 I told you at the start of the trial what I thought
4 the evidence would show. Now, the evidence is before you and I
5 want to tell you what it means. All I do, again, is ask you to
6 use your common sense and demand -- because it's my freedom --
7 that you have the complete picture. The prosecution cannot get
8 the conviction if you demand the whole picture of everything
9 that transpired.

10 Don't just ask what you saw and what you heard, was it
11 the truth, but what the prosecution chose not to show you. One
12 is they can only get their conviction if they do two things:
13 One is that you are allowed to convict me on my emails; not me,
14 not my intentions, just a slew of emails that you saw. They
15 don't want you to ask why did I send them. They showed you a
16 slew of emails as if he just started sending them, but there
17 was never an attempt to say why did he send them. They don't
18 want you to know what the purpose of these emails was.

19 The other is they want you to see me as an angry man,
20 angry old man, that is sending emails out of completely
21 unjustified rage, just sitting there, just sending them. So
22 they reduce me to just an old man sending out emails, being
23 very angry to get you to focus on the tiny part of this whole
24 picture.

25 The prosecution has not brought before you any of the

MAHGden3

Summation - Mr. Dennis

1 executive committee members who had me arrested in retaliation.

2 We talked briefly about these names that we
3 couldn't -- that no one could say in court. And as soon as
4 they were said, don't say their names. And if you remember, a
5 number of them were in Pittsburgh. We didn't have anyone from
6 the executive committee of the firm, despite the fact that in
7 the Southern District of New York, we know the Federal Bureau
8 of Investigation is involved, but we had mid level individuals
9 from the firm, partners who were not -- who were contract
10 partners. We didn't have the people who generally you would
11 find in a courtroom like this, none of them were there, none of
12 them came. A small group of K&L Gates executive committee
13 members retaliated against me for challenging their misconduct
14 and had me arrested and brought to trial.

15 The prosecution cherry-picked a few people, who came
16 to court with just a sliver of the truth. Rather than the
17 whole picture of our working as colleagues over a 14-year
18 period, sharing time with family and friends -- once again,
19 they painted me as an angry, meanspirited person who was
20 responding to the executive group's retaliation.

21 The whole picture -- and I think you saw as part of
22 the evidence that they knew me as a legal professional for more
23 than a decade. They knew I was their professional peer and a
24 gentleman. They knew my children and how I raised them to
25 respect god and treat others as they want to be treated. They

MAHGden3

Summation - Mr. Dennis

1 knew the firm had sent men with guns against me, not the other
2 way.

3 I submit, then, that the witnesses who came before you
4 were not truthful. John Bicks, living in an exclusive New
5 Jersey neighborhood, told you he was sleeping with a loaded gun
6 next to his bed stand. Eric Cottle, Eric, 6 feet tall, he
7 testified when he was leaving his house each day, he was
8 looking outside, whether I was lurking, he had special running
9 shoes so he could run away on the subway, though he later
10 admitted he had never seen me on the subway.

11 Despite our long relationship, Cally, along with John
12 and Eric never called me, never contacted -- never called me,
13 never sent me an email or a text saying, I feel intimidated or
14 I feel threatened. They never -- except until later on --
15 contacted local law enforcement, as what normal people would do
16 in situations like this. But instead, before contacting local
17 law enforcement, before contacting me, Cally decided to move
18 out of state. I would have thought there would have been other
19 steps one would take before going to that level. But I'm going
20 to detail some of the evidence to demonstrate what I'm saying.

21 I'm not like some of these witnesses. I'm not going
22 to be slick and I'm not going to do word play; I don't
23 understand, I don't recall, did you say this. I'm going to try
24 to use just straightforward words to help you understand that
25 the meaning of the words can only be understood from the

MAHGden3

Summation - Mr. Dennis

1 content. I'm happy to be responsible for my own words, but
2 only in the context I sent them.

3 Okay. On cross-examination, you saw, as the
4 prosecution pointed out, you saw the fear, you saw the
5 intimidation, you saw the emotional turmoil that all these
6 witnesses testified to. On cross-examination, you saw a
7 different side. As I told you early on -- and I'm going to
8 repeat this from my opening summation, opening statement --
9 lawyers who work in a law firm called in to handle the toughest
10 cases for these companies, both in the US and internationally,
11 a law firm that consists of partners that are accustomed to
12 unleashing some of the harshest attacks on anyone who opposes
13 their clients, a law firm, in order to prepare such attacks,
14 have legal war rooms where the attorneys discuss all the issues
15 with no holds barred before going to the public with the story.

16 Okay. So can we call up Exhibit 502, please.

17 I didn't tell her in advance. I should have.

18 By the way, these are the transcripts that I'm asking
19 you to -- this is my evidence I'm asking you to --

20 THE COURT: There it is.

21 MR. DENNIS: There it is, okay. We're going to look
22 at this real briefly.

23 If you recall the word "we" that we talked about, the
24 very first word of the sentence. And I asked Jeff Maletta who
25 is the we in this line. And Jeff said the we was himself;

MAHGden3

Summation - Mr. Dennis

1 Michael Caccese, chairman of the firm; James Segerdahl, the
2 global managing partner of the firm; Charles Tea, the deputy
3 managing counsel; and John Bicks, managing partner of the New
4 York office, who actually testified. And for those of you --
5 just the way these books are designed is that you have direct
6 examination and you have cross-examination, which means me.
7 That statement is on page 252 within these -- within the
8 transcript.

9 So John Bicks, on cross-examination testified that he
10 took no part in the decision whatsoever. I'm going to just
11 sort of make sure -- so that you -- so you have Jeff Maletta,
12 the general counsel of this international global law firm,
13 Harvard graduate, Stanford Law School, discusses this decision,
14 which basically ended my legal career, ended my relationship --
15 ended my legal -- firm -- he states these were the people that
16 were responsible. And it was sent to me at 1:44 a.m. in the
17 morning.

18 And John Bicks, when questioned about it -- two days
19 later, you ask him, John, were you a -- he says, Willie, I was
20 not part of that decision, no.

21 Okay. So general counsel, Washington, DC, this is our
22 team. The person who sits in New York, I was not part of that
23 decision, page 531 of the cross-examination, line 7. I was not
24 part of that decision.

25 Who is telling the truth? It's not a big deal. It's

MAHGden3

Summation - Mr. Dennis

1 just my freedom at stake.

2 So then -- and so my suspension occurred on
3 January 29th. So then Cally testifies that she did not learn
4 of my suspension -- I'm going to read exactly what she stated.
5 This is what she stated. I did not know about the expulsion --
6 this is from her testimony -- this is actually the first time
7 I'm hearing about it. I did not know you were suspended prior
8 to being expelled. You know, I didn't know -- this is just one
9 email. I didn't know what to say to that. I don't know if I
10 had many questions, but -- so this is a person who is fearful,
11 terrified of me, and I didn't know that you were suspended, so
12 she just found out today.

13 Eric Cottle didn't know that I was suspended. What
14 did John Bicks testify? In the days after the suspension I had
15 several discussions about this. I had a discussion, a brief
16 discussion with all of the partners in the New York office so
17 they were aware of the actions that they were -- taken. In the
18 days after, I had a brief discussion with all the partners in
19 the New York office. February, maybe, beginning of February.
20 We had witnesses here who basically said that they didn't know
21 until they were testifying.

22 So with respect to this testimony, who is telling the
23 truth? Jeff? John? Eric? Cally? I don't know. Should we
24 all -- should we call all four back before you decide the fate
25 of my life?

MAHGden3

Summation - Mr. Dennis

1 I ask you to take this under consideration during your
2 deliberations and determine why anyone would tell untruths
3 about their participation or knowledge of my suspension.
4 Please remember, as noted in the testimony, that the suspension
5 notice was sent six hours after I sent the firm an email
6 accusing them of mismanaging the firm's relationship with
7 Microsoft.

8 Okay. October 28th -- and I just want to focus in on
9 the testimony, because I'm sure your Honor will, as part of his
10 charge to you, will bring to your attention the credibility of
11 the witnesses and their testimony. Everyone can say they're
12 scared, but are they credible persons; does that in any way
13 contribute towards possibly you having some sort of doubt.

14 So I am just going to try to -- my goal here is just
15 to give you -- I am going to work through the transcripts, but
16 hopefully when you guys have the material, you will work
17 through them more, but I'm going to give you things that I
18 saw -- and this is what they know, being big lawyers. You hear
19 something one day, someone else will say something two or three
20 days, and most people won't remember it. You will only
21 remember if you get a chart and compare everyone's statements;
22 wow, same incident, everyone is saying something different.

23 So let's just go through another one that I noticed as
24 I was going through it over the weekend, which hopefully you
25 guys were having a lot more fun. At one point we were trying

MAHGden3

Summation - Mr. Dennis

1 to understand how did the FBI become involved in this case. So
2 during the cross-examination, Jeff Maletta, the question was
3 put to Jeff was, when did he first become aware that the FBI
4 was investigating this matter. Jeff's response on 302,
5 page 302, the first knowledge I had that the government was
6 investigating this matter was a telephone call from the FBI.
7 The first knowledge that I had that the government was
8 investigating the matter was a telephone call from the FBI.
9 And this is something that I missed until I was reading the
10 transcript. Then two pages later he says -- we're asking him,
11 when did you learn that it was Cally Bostick. He said, it was
12 sometime before the FBI called me -- no, that's not accurate.
13 I learned the possibility that it might happen before I was
14 called by the FBI. So did you have knowledge that the FBI was
15 involved before or did you learn about it when they first
16 called?

17 I mean, for me, I'm just sort of like, I'm not going
18 to -- can you, on testimony like that -- should Jeff not come
19 back and let's have clarity before I'm put in a position of
20 jeopardy? It would be -- you know. It's these discrepancies
21 that come up throughout this. It's the word play.

22 And I would say to you, you know -- I'll put this
23 question to you, we talked about -- I don't know if you
24 remember, John Bicks talked about having a meeting in the
25 offices of K&L Gates with members of the New York City Police

MAHGden3

Summation - Mr. Dennis

1 Department. And the transcript got kind of confusing, but I'm
2 going to -- but the idea -- the concept went around -- this is
3 going to show you the way lawyers are. The concept was around
4 the word complaint, right. And everything got real narrow,
5 because everyone was basically saying, well, no complaint was
6 ever filed, right. Probably, in a literal sense, that's
7 probably right.

8 But let me ask you a question, if two police officers
9 come to your home and sit down and talk to you, you tell
10 them --

11 MS. SIMON: Objection.

12 MR. DENNIS: -- about something, is that not a
13 complaint? In the normal word, the common sense.

14 THE COURT: Well, I will allow this. Go ahead.

15 MR. DENNIS: I'm going to go through these things as
16 well as I can, but there's a whole section I have in my
17 summation. And maybe I could -- I was going to walk you
18 through some of the exhibits, but we'll just talk about it
19 generally.

20 So let's say, for each of the victims, this case began
21 at least as early as August of 2020, at least as -- let's just
22 say, that seemed to be where they generally -- and I can -- I
23 can go to later some specific statements, but let's say around
24 August of '20 -- so it's been going on for over two years now.
25 What struck me, in terms of -- as we go back to the story,

MAHGden3

Summation - Mr. Dennis

1 you're in the war room, you put the story together, and then
2 you come out and you serve it to the public. What struck me
3 was that these people who were crying on the stand, talking
4 about loaded guns under their bed, next to their bed where
5 their family is, they only talked about it amongst themselves,
6 if you saw them repeat it, two times, three times, maybe once.
7 They never -- common sense, if you are fearful for your life
8 and that -- where you are moving out of state or you're buying
9 a gun, making sure it's loaded, and you are all living in the
10 same or working in the same office building on the same floors,
11 and you have only talked about it three, four, five times, how
12 scared are you really? Are you really scared?

13 I mean, I have citations where they'll talk about it.
14 I can find one or two, talks about it three times, I talked
15 about it four times, I only talked about it with one person, I
16 didn't talk about it with anybody -- you're moving out of
17 state, aren't you telling everybody why you're moving -- why
18 you're moving out of state and what you are doing and why
19 you're doing it? But Cally says -- actually, I might -- let me
20 see if I can find this quote. She says something along the
21 lines of, I didn't talk about it with anybody because it was a
22 personal issue.

23 You see what I spent my weekend doing, and I didn't do
24 it that well.

25 This is John. We lived in our house in Ridgewood for

MAHGden3

Summation - Mr. Dennis

1 17 years, never turned on the alarm. I started putting the
2 alarm on every night. We had to upgrade the security system, I
3 had to make a decision to upgrade the security system, to add
4 cameras so we could be aware of what was going on when I was
5 not there. I am not necessarily proud of it to say -- saying
6 it, there were nights when Willie was particularly active and
7 when I would sleep with a loaded gun next to my bed. That's
8 510.

9 And I remind you, as you take all this into context,
10 is that everyone else has said that they've been threatened,
11 said that they felt that their lives were in danger. But as
12 the law enforcement official from the Dominican Republic
13 stated, when I was arrested, how many law enforcement officials
14 were that day at the apartment? The entire division. Was it
15 more than ten? Yes. Were they all armed? Yes, yes, sir, she
16 said.

17 So out of everyone who has been in this courtroom --
18 this is the first time I've been surrounded by guns -- but out
19 of everyone who has been in this courtroom, my life has been
20 endangered the most.

21 (Continued on next page)

22

23

24

25

MahWden4

Summation - Mr. Dennis

1 MR. DENNIS: Truly in danger, because they didn't come
2 sweetly and nicely. So I don't think that for witnesses who
3 created this chain reaction, I think it's really -- to ask them
4 to come and tell the complete truth and the whole truth, I
5 don't think is unreasonable. You put someone's life in
6 jeopardy, in danger like that, to come in and just be
7 accurate -- no, I don't recall, I don't remember, I don't --
8 you remembered everything to put that chain reaction in place,
9 you remembered enough of that. But now, you don't even
10 remember when I was suspended. You didn't even know until
11 today; you learned along with the jury.

12 OK. See what else we have. These are just things
13 that I'm -- please ask for the transcripts right away and start
14 looking at what the witnesses testified to.

15 John Bicks. We're going back to how did this whole
16 chain reaction begin? And even now, two years after it was
17 done, these witnesses, you know, I asked, well, have you
18 identified how they got your emails or how they identified you?
19 John Bicks, I can't tell you. I don't know. When are you
20 going to know, after I'm shot?

21 Find that Cally, I guess -- Cally didn't go to the
22 police department, apparently, but gave it to her lawyers, who
23 then advised her that maybe they should take it to the FBI and
24 needed her consent. Now, I'm going to tell you something,
25 because I worked with these guys, and I'm a lawyer, just like

MahWden4

Summation - Mr. Dennis

1 them. Any of my clients, any of my clients, you come to me --
2 I've had incidents like this -- and you tell me that an
3 employee or that someone else you're really fearful of, the
4 first thing I'm going to advise you as your attorney is, OK,
5 we've got to get on top of this. I want you to go file a
6 police complaint, and I'm going to go with you, because your
7 life is in danger.

8 That's what big-time lawyers do. That's how we
9 protect our clients. We don't, well, let's talk about it, let
10 me see the email. We get into action and we figure out the
11 facts, just like you would do for any family member, any child,
12 any spouse that you loved. It wouldn't be -- it's like, you
13 feel like you're in imminent danger, you're certainly going to
14 do it before you move out of state. You're going to go to the
15 police, and you're going to be, like, hey, I got a problem.
16 But none of them took the actions that I think each and every
17 one of you would have taken immediately upon learning that your
18 life were in danger or you felt your life or a family member.
19 They did the opposite. So these are big-time lawyers. They
20 would advise you -- in other words, John would say to you, oh,
21 OK, I shouldn't -- you know what I advise you to do? Get a
22 loaded gun and sleep next to it. Don't go to the police.
23 Don't go here. Get a loaded gun. Just the exact opposite of
24 what we need in this country, that sort of advice, that sort of
25 behavior.

MahWden4

Summation - Mr. Dennis

1 Uh-huh. OK. All right. Anyway, I think as you look
2 at -- did they behave -- it's kind of -- did they behave in the
3 way that you would have behaved if, given the threat that they
4 felt or you felt similarly threatened. I think you just know
5 yourselves. Talk about it. What would we have done? I mean I
6 just -- I go on. I mean it's just -- I mean, you know, I'm
7 just looking at quotes I have. Cally and Eric in the same
8 office. They both, we didn't talk about it.

9 How many times did you talk?

10 Very few, very few. Maybe two. Maybe two times.

11 How many times did you -- that's under the Cally
12 Bostick. I didn't have the page number, but that's under
13 Cally's testimony. Maybe two conversations, over two -- more
14 than two years.

15 How do you question someone who makes statements like
16 that? I mean -- OK.

17 Can you call up, Ms. Geier -- I know I didn't tell you
18 in advance. Can you call up exhibit A for the defense?

19 OK. All right. That's -- uh-huh.

20 THE COURT: Mr. Dennis, if you have your exhibit A,
21 you can pass it to the jury.

22 MR. DENNIS: OK. I don't have it, but I can just sort
23 of -- I can talk you through it. It's not really complicated.

24 This was an exhibit that I asked John Bicks to review,
25 and I had asked him --

MahWden4

Summation - Mr. Dennis

1 THE COURT: There it is.

2 MR. DENNIS: That's it, right?

3 Can the jury see that?

4 OK. And so if you remember -- you probably don't
5 remember, so I'm just going to -- I'm going to ask you, because
6 this is kind of important.

7 Thank you, guys, for being so patient with me. I'm
8 just going to get right here. Oh, here we are.

9 Anyway, I'll find it. I'll just continue with this,
10 but let you know what you're looking at, why you're looking at
11 it. Within John Bicks's cross testimony, I asked John, you
12 know, would you, or, you know, I asked him to recall any
13 contact that he had with any of these local law enforcement,
14 and he testified to -- the first interaction that I recall with
15 the police department would have been, it would, I can't recall
16 again if it would have been late in 2019 or sometime early in
17 20 -- sometime in early 20 -- sometime early in 2023 -- late,
18 sometime early in -- oh, 2020, that the firm made a report to
19 the local precinct that covers 599 Lexington Avenue.

20 To let you know, local precinct is the firm, local
21 precinct is around the corner. I do recall that we ended up
22 meeting an officer with, a squad detective and a senior
23 officer. So came to the office, right around the corner. They
24 came to the office. They met with them.

25 Then I said, can you please call up exhibit A for the

MahWden4

Summation - Mr. Dennis

1 defense, which is what you're looking at.

2 John, was that one of the individuals that you met
3 with who came to your office?

4 Page 543: Yes, it was.

5 Why am I raising this issue? Look at the date on
6 that. First, we met maybe late -- early 2020. If you look at
7 that, you look at the date and you look at -- remember we
8 talked about our timeline. If you look at when a lot of the
9 emails that were submitted by the prosecution, they occurred
10 during that same period of time. So the question I put to you,
11 I won't even -- how do you think I got possession of that card?
12 How do you think I got one? They met with the partners in my
13 office. John says the same person. How do you think I got a
14 copy of that card?

15 The indictment states that between or about September
16 4, 2019 -- September 4, keep looking at that date -- and on
17 about September 27, 2019, Mr. Dennis sent at least
18 approximately 200 written communications to victims and other
19 members of the firm. I submit to you that sometime between
20 when I got that card I was a victim as well -- again. More
21 guns around me and my family.

22 I ask the jury to consider why did John and Jeff not
23 advise Cally or Eric about the meeting and ask them to
24 participate? You guys are so -- come in. Let's all bring --
25 why is everything so segmented and siloed? Their story.

MahWden4

Summation - Mr. Dennis

1 So in other words, Cally never reported her fears to
2 the NYPD, which, think about -- I mean which is right around
3 the corner. Eric is terrified. He's running into the
4 building. It's right around the corner. On your way in, when
5 you're getting coffee, going for lunch, let's just stop in and
6 give them some more emails. They're coming in all the time.
7 Let's -- What would I do? I would advise -- you know what I'm
8 going to do? We're going to make them get involved in this.
9 Every time he sends you an email, every email, we're going to
10 take them over, I'm going to walk you over to the office, we're
11 going to put them on the desk sergeant, we got some more.
12 Here, what are you guys going to do?

13 You're right around the corner from them. Why aren't
14 you all over them because your life is in danger?

15 Anyway, all right. Oh, here it is. Right. Right.
16 Here it is, page 5 -- if you look at Cally's, you know, her
17 transcript on cross-examination, obviously I'm looking, she and
18 John are in their office. She's only had one conversation with
19 John about the issue. Otherwise, he told her, he referred her
20 to Washington, D.C. Went to Washington, how is Washington,
21 D.C., the office, Jeff Maletta, going to help her in New York
22 City against --

23 OK. So we're going to go back to, maybe, is there a
24 possibility that any of my emails or text messages could have
25 been related to any of this stuff? Maybe. Is it too much to

MahWden4

Summation - Mr. Dennis

1 ask that at least everyone, I mean if you feel that -- fine,
2 but come and tell the truth.

3 Yes. So I would certainly say if you're in the --
4 when you deliberate, I'd ask you to take a look at page 670,
5 which is part of the testimony of Cally, but I'm going to
6 read -- I'm going to read a little bit about it, read a little
7 bit of it. OK. All right. OK. I'm going to read it to you.
8 OK. I'm going to read to you from page 669. OK. I'm sorry.

9 "Can you name the persons who you talked to?" That's
10 the question.

11 "A. So I talked to the general counsel, Jeff Maletta.

12 "Q. How many times did you talk to Jeff Maletta?

13 "A. About concerns for my safety?"

14 And Jeff Maletta, so we keep it in context, is in
15 Washington, D.C.

16 "A. Concern for my safety? Many times."

17 Jeff Maletta's in Washington D C. The police
18 department's right around the corner.

19 "A. Especially when it escalated. I wanted the firm to get a
20 hold of it, control of it.

21 "Q. So you spoke to Jeff Maletta many, many times?

22 "A. Yes.

23 "Q. OK. Who else?

24 "A. John Bicks initially. But again, I was advised to only
25 speak to Jeff Maletta about it, which is what I did. I spoke

MahWden4

Summation - Mr. Dennis

1 to, to people at the firm that are not just colleagues but
2 friends of mine.

3 "Q. With respect to John -- with respect to -- did John Bicks,
4 in your conversations with John Bicks, did he offer any
5 solutions or any sort of action that you could take in order to
6 ensure your protection?

7 "A. Actions that John Bicks could take?

8 "Q. As the office managing partner of the New York office,
9 yes.

10 "A. No. I knew that the office had security, but no, he
11 didn't offer me any solutions."

12 Managing partner of an international, global law firm.
13 He doesn't -- and your partner's life is in jeopardy, and you
14 don't offer her a single solution?

15 "A. But no, he didn't offer any other solutions. Again, he
16 directed me to work through my issues with Jeff, my concerns
17 with Jeff."

18 How concerned were you? And how concerned was John
19 about it?

20 "Q. So let me understand this right. You felt threatened.
21 You felt like your life was in danger, and he directed you to
22 work with Jeff Maletta, who was in Washington, D.C.?

23 "A. Yes.

24 "Q. With respect to your testimony today, have you spoken to,
25 or did you speak to Jeff Maletta prior to testifying?

MahWden4

Summation - Mr. Dennis

1 "A. No.

2 "Q. Have you spoken to Eric Cottle?

3 "A. No.

4 "Q. Have you spoken to John Bicks?

5 "A. About my testimony?

6 "Q. Yes, that you were going to testify here.

7 "A. No.

8 "Q. Now let's just confirm, what floor are you on in the New
9 York office?

10 "A. I'm on the 32nd floor.

11 "Q. What floor is John Bicks on?

12 "A. John's on the 31st floor.

13 "Q. What floor is Eric on?

14 "A. Eric's on the 33rd floor."

15 So then we go on:

16 "Q. So are you aware of any actions that the firm may have
17 taken in order to protect your security and make sure that you
18 were safe?

19 "A. Yes.

20 "Q. Tell me the official actions, any official actions they
21 may have taken.

22 "A. Oh, was security at my apartment."

23 They hired security for her apartment. Still no
24 police report yet.

25 "A. Yes. They helped me move.

MahWden4

Summation - Mr. Dennis

1 "Q. Did they" -- here's a question:

2 "Q. Did they ever suggest reporting this to the New York City
3 Police Department?

4 "A. No."

5 So we have another vigilante running out there. She's
6 going to take justice into her own hands. John's going to
7 probably give her a loaded gun.

8 So -- anyway, so this goes on. But I think that --
9 yeah, if you just look at this testimony, and once again, as
10 the Department of Justice is pointing out, you know, you sort
11 of apply it to a reasonable standard, like common sense
12 standard.

13 So then, I'm going to -- I'm getting close to wrapping
14 up.

15 So, you know, so it's --

16 Right here probably. OK. So, you know, one of the
17 things that I think -- all right, one of the things that I
18 think occurred during the course of this trial is we --
19 everyone had the opportunity to discuss all the measures that
20 they had taken in order to, you know, protect themselves, you
21 know, because you have on the one side, OK, this is what I'm
22 fearful of. This is what's going on. These are the dangers.
23 Then you have, OK, tell us about everything that you did --
24 hopefully seeing a balance or a match between the threat and
25 your response.

MahWden4

Summation - Mr. Dennis

1 So Jeff and Cally and John were selective about
2 measures that they took. They were selective, and as I said,
3 they never talked about -- they always, they always moved
4 towards, most of their solutions were basically self-help, you
5 know. But we, we probed them some. And so as we were probing
6 them, I'm just going to read to you. OK. I'm going to read to
7 you. This is page 676 of Cally's -- Cally's testimony:

8 "Q. So Cally, I think we left off about a security measure.
9 Any security measures that KL Gates had taken to protect, can
10 you describe or will you describe the security measures taken
11 in September 2019 at the Corporate Counsel Women of Color
12 conference."

13 September 2019, and if you may remember, that's a
14 conference that -- we heard testimony -- consists of basically
15 over a thousand women attorneys, African American, Asian,
16 Latina attorneys. And the firm hired security to protect the
17 women lawyers at KL Gates that were attending the conference.

18 "Q. So the firm hired security to protect" -- I'm going to
19 insert, but she didn't say this -- "only the women from KL
20 Gates at the conference.

21 "Q. Where was the conference located?

22 "A. Chicago.

23 "Q. Did you know the name of the security company?

24 "A. I don't.

25 "Q. What information did Mr. Maletta provide to you about the

MahWden4

Summation - Mr. Dennis

1 security that he was hiring?

2 "A. Just that he was looking to get permission to have
3 security for us because many of us didn't feel safe attending."

4 So, now, you haven't reported it to anyone in New
5 York. Now you're going out of state, and security is coming
6 with you, maybe to the conference. I wonder if the other women
7 in the room, if they were aware. Things happen to women as
8 well as men, actually.

9 "Q. Did Mr. Maletta come to Chicago?"

10 Jeff once again, international law firm, global law
11 firm, major clients.

12 "A. I don't remember. OK?

13 "Q. In your prior years, has the firm ever hired security for
14 the conference?

15 "A. Not to my knowledge."

16 We go on. The Court gives me an opportunity for
17 Ms. Bostick to, to review some documents. And it ends with:

18 "Q. Ms. Bostick, I want to ask again, to your knowledge, did
19 Jeff Maletta expect -- did he inform you that he expected to be
20 in Chicago for this conference and to work with the security to
21 be in Chicago?

22 "A. Yes.

23 "Q. And his purpose for being in Chicago was to?"

24 Her answer was "to meet with security."

25 "Q. So the general counsel of an international, global law

MahWden4

Summation - Mr. Dennis

1 firm, flying to Chicago where there are over, I have here 800
2 women to meet with security?

3 "A. Yes."

4 Didn't get a chance to find out or delve into if they
5 were armed or not. But if they were, that just meant that
6 there were more guns around me -- another chance where an
7 accident could have happened.

8 And so once again, but it's sort of like these emails,
9 there's no context. These emails are just being sent? Could
10 the context have been you endangered all these people? You and
11 John? You're not having an affair with him. It's a
12 conspiracy, and you're endangering other women who gave you
13 business, who helped to bring you along. And now, because it's
14 to your financial interest, you will let them be exposed, for
15 no reason whatsoever, to nonsense. You ought to be ashamed of
16 yourselves is what I'm saying.

17 But in any event, so, you know -- and so it was never
18 about an affair. It was an analogy that you two are conspiring
19 against me, you might as well be lovers. But your conspiracy
20 is not one in which -- based on anything physical. It's a
21 conspiracy that --

22 OK. You want to bust my chops? You want to give me a
23 hard time? OK. But 1,000 God-fearing women attorneys who are
24 walking around and this is going on and they have no knowledge
25 about it. And they helped you. They put you to where you are

MahWden4

Summation - Mr. Dennis

1 today.

2 Could you have not said to the firm, No, this is,
3 haven't reported to the police, but now it's -- this has gone
4 far enough. Let's not -- you know, let's not get all the women
5 involved and, you know, let's not -- you know, I used to
6 have -- I have, you know, I worked on Wall Street and then, for
7 30 years and worked with a lot of great attorneys. You all
8 know that what this really all is about is about money. I mean
9 you saw the wealth. Tailored lawyers and living in exclusive
10 neighborhoods. It's about money.

11 I used to ask this question of people. No one ever
12 got the answer, because it's a silly answer, but if you work on
13 Wall Street, do you know how much -- do you know how much a
14 person -- and I'm not asking you to answer, because I'm going
15 to answer it for you. I said, how much do you need to make?
16 How much do you need to make if you work on Wall Street? What
17 is the barometer? And people would throw out all sorts of
18 numbers, and I'd give them a real simple answer: Just a little
19 bit more. No matter how much they have, just a little bit
20 more. And people are willing to do so many different things
21 for just a little bit more.

22 I think that -- I think that, you know -- sometimes I
23 get -- it's so much. It's, you know, it's obviously my life,
24 and it's obviously -- these are all people I knew for many,
25 many, many years, and we had a lot of good experiences

MahWden4

Summation - Mr. Dennis

1 together, and you know, unfortunately, it's going to be -- but
2 you know, I know you have a serious job to do. I'm asking you
3 to remember the traditional oath, sworn under God, to tell the
4 truth, the whole truth, and nothing but the truth.

5 The prosecution's witnesses did not tell the truth.
6 And you saw it on their faces. The prosecution did not tell
7 the whole truth because they could not show you the whole
8 truth. The information that was withheld, the information that
9 you didn't get a chance to see would have not, even but for the
10 testimony, even the testimony, I think, would result in you
11 acquitting me.

12 As you review those emails, the text messages, reflect
13 on the testimony of the witnesses, I ask you to consider the
14 kind of man you see before you. Do you see a man who would
15 ever threaten the physical well-being of or harm anyone in
16 person or by way of text or email? The professional and
17 gentlemanly way I've behaved in my 14-year career at KL Gates,
18 even though I had been respected, had my clients taken, stolen,
19 my compensation systematically just -- what I did was not a
20 crime. And nothing I did is deserving of prison.

21 Thank you very much.

22 THE COURT: All right. Ladies and gentlemen, I think
23 we'll give you your lunch break at this time, and we will
24 reconvene at 20 minutes before two.

25 (Jury not present)

MahWden4

Rebuttal - Ms. Simon

THE COURT: All right. We'll see you in an hour.
(Luncheon recess)

MahWden4

Rebuttal - Ms. Simon

AFTERNOON SESSION

1:40 p.m.

(Jury not present)

THE COURT: In the meantime, let me have my law clerk hand out to each side a copy of the verdict form.

(Jury present)

THE COURT: Please be seated.

All right. Ladies and gentlemen, now we'll hear the rebuttal summation from the government.

MS. SIMON: The defendant said a lot of things in his closing statement. I'm not going to address every point the defendant made. I know how carefully you watched the evidence in this trial, but there are a few main arguments the defendant's made that I'd like to address right now.

At the outset, I want to be clear about one thing. The defendant has no obligation to do anything at this trial. As Judge Rakoff told you, the government has the burden of proof. That's our responsibility, and we embrace it. But, as Ms. Kushner pointed out in the government's opening summation, when the defendant makes arguments, like he just did, it is perfectly appropriate for you to assess those arguments. Consider whether they make any sense and whether they're consistent with the evidence that you heard and saw over the course of the trial. And it is perfectly appropriate for the government to respond to those arguments, to direct you back to

MahWden4

Rebuttal - Ms. Simon

1 the law, the evidence, and of course, your own common sense.

2 What the government presented to you at this trial and
3 in its opening summation is the evidence, the facts. That's
4 not what you heard from the defendant. A lot of what you heard
5 from the defendant was designed to distract you from those
6 facts. For example, when the victims learned about the FBI
7 investigation, how many people came to arrest him in the
8 Dominican Republic, the alleged attacks on his family, for
9 which you saw no evidence whatsoever, see these arguments for
10 what they are -- arguments designed to distract you from the
11 facts, from the overwhelming evidence in this case, evidence
12 that proves beyond a reasonable doubt that the defendant is
13 guilty.

14 Think for a moment why the defendant is trying to
15 distract you. He's trying to distract you because if you focus
16 on the facts, on the evidence, it's all over for him. It's
17 obvious that the defendant is guilty. The defendant knows
18 that, and so Mr. Dennis is doing all sorts of things to try to
19 distract you, to get you to focus on other things besides the
20 overwhelming evidence of his guilt. So I urge you, don't be
21 distracted. Whether the defendant was wrongfully terminated
22 from his job at K&L Gates, whether he was upset at the way the
23 law firm treated him, whether security came to a women's
24 conference, it does not matter. All that matters is that the
25 defendant sent the text messages and emails you saw during the

MahWden4

Rebuttal - Ms. Simon

1 course of this trial; that the defendant sent those messages
2 with the intent to harass or to intimidate his victims and that
3 the victims experienced substantial emotional distress as a
4 result of those messages. Focus on the evidence, the messages
5 themselves, how the victims told you they felt after receiving
6 those messages. The hard evidence exposes the defendant's
7 arguments for what they are -- sideshows, distractions.

8 Here's another distraction the defendant's using. The
9 defendant talked a lot about what you don't have, what's not in
10 evidence in this case. See it for what it is -- another
11 distraction, a distraction from the mountain of evidence
12 against him.

13 A few points on this.

14 Yes, as I mentioned, the government has the burden in
15 this case. The defendant has no burden whatsoever. But if the
16 defendant wanted to call a witness or wanted to try to present
17 you with additional evidence that was actually relevant to your
18 consideration in this case, he could have.

19 MR. DENNIS: Objection, your Honor.

20 MS. SIMON: And let's just --

21 THE COURT: Overruled. That's a fair response to the
22 argument that was made by the defendant.

23 Please continue.

24 MS. SIMON: And let's stop to think for a minute why
25 the defendant is talking about what's not in evidence. It's

MahWden4

Rebuttal - Ms. Simon

1 because he knows that if you look at the evidence, if you look
2 at the facts, if you use your common sense, then it's over for
3 him. He knows that.

4 Focus on what is in evidence -- the text messages, the
5 emails, the sworn testimony of the victims, not what the
6 defendant said but what's in evidence. The emails and text
7 messages you saw on their face are intimidating, threatening,
8 and harassing. The sheer volume of them is harassing. You
9 don't need to speculate. There isn't any excuse for what the
10 defendant did. It doesn't make any sense.

11 Here's another argument the defendant made to you in
12 his closing statement. He said what he sent the victims were
13 just business emails. Business emails? Give me a break.

14 First of all, the defendant said emails because he
15 doesn't want you to focus on the text messages. The text
16 messages sink him. If you look at the text messages, you know
17 that they're not about business disputes. You don't call
18 someone a gutter rat piece of shit in a business dispute. You
19 don't send someone messages at all hours of the day and night
20 in a business dispute. You don't threaten to come to someone's
21 home or threaten to turn someone into a biblical symbol or
22 falsely accuse someone of trolling for dudes to sleep with on a
23 dating application in a business dispute. You don't invoke
24 slavery and you don't invoke the Holocaust in a business
25 dispute. It doesn't make any sense. Plus the defendant's

MahWden4

Rebuttal - Ms. Simon

1 conduct, as you heard, persisted for more than a year after he
2 was expelled from K&L Gates. He had no business left to do at
3 the law firm or any of those victims for months and months. He
4 turned instead to the full-time job of tormenting his victims,
5 just to exact some kind of weird revenge on them.

6 The defendant suggested to you that this was all about
7 money. Maybe it was all about money to the defendant. Perhaps
8 that's why he sent these victims thousands of messages years
9 after he was fired, because he wanted more money from the firm.
10 But the victims didn't have a financial incentive in this case.
11 They didn't have a business dispute with the defendant. You
12 know what this is. Just more nonsense from the defendant.

13 In his closing, the defendant also made several
14 references to context, to the whole picture. He seems to think
15 that the back story of his grievances with the law firm somehow
16 explains or justifies the messages he sent to the victims
17 months and even years later. He's flat wrong. The defendant
18 may have been upset at the firm. He may have thought the firm
19 wronged him. He may have even felt that one or more of the
20 victims wronged him.

21 So what? Just because the defendant was upset with
22 his former law firm did not give him the license to send
23 thousands of harassing messages to his former coworkers.
24 Nothing the firm allegedly did to the defendant justifies his
25 conduct.

MahWden4

Rebuttal - Ms. Simon

1 Think about it. If someone thought that a bank, their
2 bank, had wrongfully removed money from their bank account, it
3 couldn't go rob the bank. If they did that, they'd be guilty
4 of bank robbery. The same is true here. Just because the
5 defendant believed, rightly or wrongly, that he had been
6 mistreated by the firm didn't permit him to harass and
7 intimidate his former coworkers over text and email. There's
8 just no justification for what he did.

9 The defendant's disputes with the firm don't provide
10 context. It's only relevant insofar as it shows that the
11 defendant had an axe to grind with his former employer, that he
12 wanted revenge against his former coworkers, the people who he
13 perceived had wronged him.

14 Focus on the evidence. You saw many of the
15 disturbing, harassing, and threatening messages for yourselves.
16 Concentrate on the ones the defendant sent after he was fired
17 from the law firm in May 2019, the ones saying "I will find
18 you," the ones threatening to turn his victims into a biblical
19 symbol, the ones calling victims degrading, even racist, names.
20 What more do you need to know? The messages speak for
21 themselves. You can tell just by looking at them that they
22 were sent with the intent to harass or intimidate the victims.
23 The defendant can't walk away from the messages he sent.

24 The defendant said that he would be happy to be held
25 responsible for his own words. Hold him responsible.

MahWden4

Rebuttal - Ms. Simon

1 It's also clear from the defendant's summation that he
2 thinks he was the victim in all of this. It's always the firm
3 versus Willie Dennis, the members of the management committee
4 versus Willie Dennis, the government versus Willie Dennis, even
5 the victims versus Willie Dennis. He's gone so far as to
6 suggest that the witnesses are involved in some giant
7 conspiracy against him, that they're somehow responsible for
8 failing to stop him from sending them threatening messages.

9 What trial was he at? He's not a victim. You know
10 who the real victims are -- John Bicks, Eric Cottle, and
11 Calvina Bostick. The defendant made them victims. You saw the
12 messages the defendant sent them, how he sent them back to back
13 to back at all hours of the day and night. You heard how those
14 messages made the victims feel, how the messages upended their
15 lives. Don't let the defendant fool you. There's simply
16 nothing to his outlandish allegation that he's the victim of
17 some giant conspiracy.

18 You heard the victims. They weren't out to get the
19 defendant. They all thought they had pretty good relationships
20 with him before he turned on them. It was the defendant's own
21 conduct that connected these victims. They didn't ask to
22 receive all the messages they did. It was the defendant who
23 did that to them.

24 The defendant also argued to you that the victims
25 couldn't have been in fear for their lives in response to his

MahWden4

Rebuttal - Ms. Simon

1 conduct for many reasons. He said because they were lawyers
2 used to tough talk or because they didn't discuss the
3 defendant's conduct with each other enough or because they
4 didn't go to law enforcement early enough, even questioned the
5 witnesses' credibility. There is a lot wrong with those
6 arguments.

7 First, the messages on their face would have put
8 anyone in fear. The fact that the defendant kept sending these
9 messages back to back to back would have made anyone fearful.
10 You could convict the defendant based on his words alone, the
11 messages he sent. But in any event, you know that the victims
12 were actually in fear of the defendant. You know that because
13 they told you. You observed their demeanors when they
14 testified. You saw Calvina Bostick break down in tears in the
15 mere sight of the defendant.

16 The victims knew that the defendant had an axe to
17 grind with the firm, and that only increased the anxiety,
18 stress, and -- yes -- fear, they felt from the defendant's
19 messages. The fact is they didn't know what the defendant
20 might do. They didn't know whether he would carry out his
21 threats, and that unpredictability was part of what made the
22 defendant's conduct threatening.

23 You also heard about the steps the victims took to
24 protect themselves. Eric Cottle became more vigilant during
25 his daily commute and didn't attend certain professional

MahWden4

Rebuttal - Ms. Simon

1 conferences. John Bicks activated his home alarm and slept
2 with a gun. Calvina Bostick stopped going for her daily run,
3 got security for her home, and even moved out of state. Those
4 are things people do when they're scared for their physical
5 safety.

6 The defendant wants you not to believe the victims.
7 He wants you not to believe them because their testimony is
8 devastating for him. You saw the victims. You heard them.
9 You saw the emails and text messages that corroborate them.
10 You know they're telling the truth.

11 Taking a step back, there's another problem with the
12 defendant's arguments. It's misleading on the law.

13 I expect that Judge Rakoff will instruct you that the
14 government needs to prove only that the defendant's course of
15 conduct caused, attempted to cause, or reasonably could be
16 expected to cause substantial emotional distress. That may
17 include fear, but fear isn't necessary. And you know the
18 victims experienced substantial emotional distress. You heard
19 the victims. They told you how they felt anxious, concerned,
20 or worried. And yes, even scared. And you saw their demeanors
21 when they saw -- when they talked about what happened to them.

22 The defendant's tough-talk bit is just another one of
23 his many distractions. Just because the victims worked in a
24 stressful environment or were used to delivering difficult news
25 to clients doesn't mean they're not distressed when a former

MahWden4

Rebuttal - Ms. Simon

1 colleague sends them streams of threatening messages. You saw
2 for yourself the defendant's messages weren't of a business
3 nature. They were vile. The tough-talk argument just doesn't
4 make any sense.

5 The same is true regarding the defendant's arguments
6 that if witnesses were scared they would have spoken to each
7 other more or would have gone to law enforcement earlier. You
8 heard during the course of this trial that the victims did
9 discuss the defendant's conduct with each other. They just
10 didn't discuss their testimony with each other. That's
11 completely appropriate. Judge Rakoff told you that.

12 The victims were also told to discuss the defendant's
13 conduct with the firm's general counsel. You heard that they
14 did that. Ms. Bostick told you the firm helped her get
15 security for her home and helped her to move out of state.
16 That corroborates the steps that she took and that she felt
17 fear from the defendant's conduct.

18 You also heard that Mr. Bicks and Mr. Maletta did
19 speak to the NYPD and that Ms. Bostick's attorney brought the
20 case to the FBI. I'm not sure why the defendant thinks that's
21 helpful to him. That's a completely legitimate thing for
22 victims to do.

23 The defendant similarly argued to you that if the
24 victims were really distressed by his messages, they would have
25 responded to him and told him to stop. You know that's

MahWden4

Rebuttal - Ms. Simon

1 nonsense.

2 First of all, the defendant was told to stop multiple
3 times. You saw the emails the firm's general counsel, Jeff
4 Maletta, sent to the defendant in early 2019, telling him to
5 stop emailing firm employees and that firm employees would not
6 respond directly to his messages. And you saw the cease and
7 desist letter sent by the firm's outside lawyer to the
8 defendant in September 2019, telling him again, in no uncertain
9 terms, that the recipients found these messages harassing and
10 that they needed to stop.

11 When the firm sent these warning emails and the cease
12 and desist letter to the defendant, they told the defendant
13 they were acting on behalf of the victims. You can see it in
14 the letter itself. If the defendant somehow didn't know before
15 he received these warnings that his behavior was unacceptable,
16 there is no question that after the firm sent the cease and
17 desist letter the defendant knew that the victims found his
18 messages harassing and wanted them to stop.

19 But as you heard and saw, the defendant didn't stop.
20 He doubled down. You saw the text messages the defendant sent
21 for months and months after he received the cease and desist
22 letter. That shows that the defendant's conduct was
23 intentional.

24 Lastly, your common sense tells you that the fact the
25 victims didn't respond directly to the defendant says nothing

MahWden4

Rebuttal - Ms. Simon

1 about whether they were distressed. And it certainly wasn't an
2 invitation for the defendant to keep sending them harassing
3 messages.

4 When the victims didn't respond to his messages for
5 years, it was a clear sign to the defendant that his messages
6 were unwanted. Again, the thousands of messages the defendant
7 sent without a response only shows that the defendant's own
8 intent was to harass and intimidate his victims.

9 Now, the defendant has suggested to you that the
10 consequences of his crimes are now your responsibility; that
11 because of your jury service, you are now responsible for the
12 defendant's fate. That's simply not the case. The defendant
13 alone is responsible for the consequences of his actions. He
14 was the one who sent thousands of harassing and threatening
15 messages to his former coworkers. He was the one who put his
16 victims through hell. He was the one who refused to stop after
17 being warned multiple times. No one else is responsible for
18 the defendant's fate but him.

19 Now, I know that doesn't diminish the difficult task
20 you have here today. You have a very serious duty, but your
21 job as jurors is simply to examine the evidence dispassionately
22 and apply the law that you're about to hear. You cannot let
23 whatever sympathy you might have for the defendant interfere
24 with that duty, because at the end of the day, it doesn't
25 matter whether you like the defendant or not. We're not asking

MahWden4

Rebuttal - Ms. Simon

1 you to judge whether he's a good person or not.

2 Go back -- excuse me.

3 Now, because of the careful attention you've paid over
4 the last few days, the defendant had a fair trial. He had his
5 day in court. Now it's time for you to do your duty. Go back
6 to that jury room and decide this case based on the principles
7 that Judge Rakoff will explain to you. Decide this case
8 without fear, without favor, without prejudice, without
9 sympathy. Decide this case based on all the evidence you've
10 seen and heard. And if you do all that, and if you use your
11 common sense, there's only one verdict to reach, one verdict
12 that fits the law and the evidence -- that the defendant,
13 Willie Dennis, is guilty as charged.

14 THE COURT: Thank you very much.

15 MR. DENNIS: Your Honor, I'd like to --

16 THE COURT: No.

17 MR. DENNIS: Your Honor --

18 THE COURT: No.

19 MR. DENNIS: Your Honor --

20 THE COURT: Come to the sidebar, Mr. Dennis, because
21 you have no right to be talking at this point.

22 MR. DENNIS: Your Honor --

23 THE COURT: It is absolutely forbidden, but if you
24 want to come to the sidebar, I will hear you at the sidebar.
25 Otherwise, I will ask --

MahWden4

Charge

1 MR. DENNIS: I apologize.

2 THE COURT: I will take appropriate action.

3 MR. DENNIS: I apologize, your Honor. I just was
4 going to ask a question.

5 THE COURT: Come to the sidebar if you want to ask a
6 question.

7 MR. DENNIS: Certainly.

8 (At sidebar)

9 MR. DENNIS: I was going to ask you if you could
10 explain to the jury why I'm not going to be able to respond so
11 that they understand. The government just had the last word so
12 the jury would understand --

13 THE COURT: They have already heard that from me. The
14 request is denied.

15 MR. DENNIS: Can the jury --

16 THE COURT: The request is denied. They've already
17 heard that from me. The request is denied. Now please sit
18 down.

19 (In open court)

20 THE COURT: All right. I'll to ask my law clerk to
21 hand out to the members of the jury my instructions of law.
22 We're going to read them together, and then you'll have them in
23 writing to take in to the jury room.

24 All right. Ladies and gentlemen, if you look at the
25 table of contents, you'll see there are, first, a bunch of

MahWden4

Charge

1 general instructions which apply not only to this case but
2 really to all criminal cases. And then in the second section
3 are the elements of the specific three charges that are made in
4 this case, and then there are some concluding instructions
5 about how you fill out your verdict form and things like that.
6 So let's turn to page 3 for the start of the general
7 instructions.

8 We are now approaching the most important part of this
9 case, your deliberations. You have heard all of the evidence
10 in the case as well as the final arguments of the lawyers for
11 the parties. Before you retire to deliberate, it is my duty to
12 instruct you as to the law that will govern your deliberations.
13 These are the final and binding instructions which entirely
14 replace the preliminary instruction I gave you earlier. As I
15 told you at the start of this case, and as you agreed, it is
16 your duty to accept my instructions of law and apply them to
17 the facts as you determine them.

18 Regardless of any opinion that you may have as to what
19 the law may be or ought to be, it is your sworn duty to follow
20 the law as I give it to you. Also, if any attorney or other
21 person has stated a legal principle different from any that I
22 state to you in my instructions, it is my instructions that you
23 must follow.

24 Because my instructions cover many points, I have
25 provided each of you with a copy of them not only so you can

MahWden4

Charge

1 follow them as I read them to you now but also so that you can
2 have them with you for reference throughout your deliberations.
3 In listening to them now and reviewing them later, you should
4 not single out any particular instruction as alone stating the
5 law, but you should instead consider my instructions as a
6 whole.

7 Your duty is to decide the fact issues in the case and
8 arrive, if you can, at a verdict. You, the members of the
9 jury, are the sole and exclusive judges of the facts. You pass
10 upon the weight of the evidence; you determine the credibility
11 of the witnesses; you resolve such conflicts as there may be in
12 the testimony; and you draw whatever reasonable inferences you
13 decide to draw from the facts as you determine them.

14 In determining the facts, you must rely upon your own
15 recollection of the evidence. To aid your recollection, we
16 will send you at the start of your deliberations all the
17 documentary exhibits as well as an index to help you access
18 what you want. Also, if you need to review particular portions
19 of testimony, we can arrange to provide them to you in
20 transcript or read-back form.

21 Please remember that none of what the lawyers have
22 said in their opening statements, in their closing arguments,
23 in their objections, or in their questions, is evidence. Nor
24 is anything I may have said evidence. The evidence before you
25 consists of just two things: the testimony given by witnesses

MahWden4

Charge

1 that is received in evidence and the exhibits that were
2 received in evidence.

3 Testimony consists of the answers that were given by
4 the witnesses to the questions that were permitted. Please
5 remember that questions, although they may provide the context
6 for answers, are not themselves evidence; only answers are
7 evidence, and you should therefore disregard any question to
8 which I sustained an objection. Also, you may not consider any
9 answer that I directed you to disregard or that I directed be
10 stricken from the record. Likewise, you may not consider
11 anything you heard about the contents of any exhibit that was
12 not received in evidence.

13 Furthermore, you should be careful not to speculate
14 about matters not in evidence. For example, there is no legal
15 requirement that the government prove its case through a
16 particular witness or by use of a particular law enforcement
17 technique. Nor should you speculate about why one or another
18 person whose name may have figured in the evidence is not part
19 of this trial or what his or her situation may be.

20 (Continued on next page)

21
22
23
24
25

MAHGden5

Charge

1 THE COURT: Your focus should be entirely on assessing
2 the evidence that was presented here for your consideration.

3 It is the duty of the attorney for each side of a case
4 to object when the other side offers testimony or other
5 evidence that the attorney believes is not properly admissible.
6 Counsel also have the right and duty to ask the Court to make
7 rulings of law, to request conferences at the sidebar out of
8 the hearing of the jury. All such questions of law must be
9 decided by me. You should not show any prejudice against any
10 attorney or party because the attorney objected to the
11 admissibility of evidence, asked for a conference at the
12 sidebar out of the hearing of the jury or asked me for a ruling
13 on the law.

14 I also ask you to draw no inference from my rulings or
15 from the fact that on occasion I asked questions of certain
16 witnesses. My rulings were no more than applications of the
17 law and my questions were only intended for clarification or to
18 expedite matters. You are expressly to understand that I have
19 no opinion as to the verdict you should render in this case.

20 You are to perform your duty of finding the facts
21 without bias or prejudice as to any party. You are to perform
22 your final duty in an attitude of complete fairness and
23 impartiality. You are not to be swayed by rhetoric or
24 emotional appeals.

25 The fact that the prosecution is brought in the name

MAHGden5

Charge

1 of the United States of America entitles the government to no
2 greater consideration than that accorded any other party. By
3 the same token, it is entitled to no less consideration. All
4 parties, whether the government or individuals, stand as equals
5 at the bar of justice.

6 Please also be aware that the question of possible
7 punishment is the province of the judge, not the jury, and it
8 should therefore not enter into or influence your deliberations
9 in any way. Your duty is to weigh the evidence and not be
10 affected by extraneous considerations.

11 It must be clear to you that if you were to let bias
12 or prejudice or sympathy or any other irrelevant consideration
13 interfere with your thinking, there would be a risk that you
14 would not arrive at a true and just verdict. So do not be
15 guided by anything except clear thinking and calm analysis of
16 the evidence.

17 The defendant here, Willie Dennis, is charged with
18 separate violations or counts of a federal crime called
19 cyberstalking, about which I will instruct you shortly. Please
20 bear in mind, however, that these three charges or counts are
21 not themselves evidence of anything.

22 The defendant has pleaded not guilty. To prevail
23 against the defendant on a given charge, the government must
24 prove each essential element of the charge beyond a reasonable
25 doubt. If the government succeeds in meeting this burden, your

MAHGden5

Charge

1 verdict should be guilty on that charge; if it fails, your
2 verdict must be not guilty on that charge. This burden never
3 shifts to the defendant, for the simple reason that the law
4 presumes a defendant to be innocent and never imposes upon a
5 defendant in a criminal case the burden or duty of calling any
6 witness or producing any evidence.

7 In other words, the defendant starts with a clean
8 slate and is presumed innocent until such time, if ever, that
9 you as a jury are satisfied that the government has proven that
10 he is guilty beyond a reasonable doubt.

11 Since to convict the defendant of a given charge the
12 government is required to prove that charge beyond a reasonable
13 doubt, the question then is: What is a reasonable doubt? The
14 words almost define themselves. It is a doubt based upon
15 reason. It is doubt that a reasonable person has after
16 carefully weighing all of the evidence. It is a doubt that
17 would cause a reasonable person to hesitate to act in a matter
18 of importance in his or her personal life. Proof beyond a
19 reasonable doubt must therefore be proof of a convincing
20 character that a reasonable person would not hesitate to rely
21 on in making an important decision.

22 A reasonable doubt is not caprice or whim. It is not
23 speculation or suspicion. It is not an excuse to avoid the
24 performance of an unpleasant duty. The law does not require
25 that the government prove guilt beyond all possible or

MAHGden5

Charge

1 imaginable doubt; proof beyond a reasonable doubt is sufficient
2 to convict.

3 If, after fair and impartial consideration of the
4 evidence, you have a reasonable doubt as to the defendant's
5 guilt with respect to a particular charge against him, you must
6 find the defendant not guilty of that charge. On the other
7 hand, if, after fair and impartial consideration of all the
8 evidence, you are satisfied beyond a reasonable doubt of the
9 defendant's guilt with respect to a particular charge against
10 him, you should not hesitate to find the defendant guilty of
11 that charge.

12 In deciding whether the government has met its burden
13 of proof, you may consider both direct evidence and
14 circumstantial evidence.

15 Direct evidence is evidence that proves a fact
16 directly. For example, where a witness testifies to what he or
17 she saw, heard or observed, that is called direct evidence.

18 Circumstantial evidence is evidence that tends to
19 prove a fact by proof of other facts. To give a simple
20 example, suppose that when you came into the courthouse today
21 the sun was shining, it was a nice day, but the courtroom
22 blinds were drawn and you could not look outside. Later, as
23 you were sitting here, someone walked in with a dripping wet
24 umbrella and, soon after, somebody else walked in with a
25 dripping wet raincoat. Now, on our assumed facts, you cannot

MAHGden5

Charge

1 look outside of the courtroom, you cannot see whether it is
2 raining, so you have no direct evidence of that fact. But on
3 the combination of the facts about the umbrella and the
4 raincoat, it would be reasonable for you to infer that it had
5 begun raining.

6 That is all there is to circumstantial evidence.
7 Using your reason and experience, you infer from established
8 facts the existence or the nonexistence of some other fact.
9 Please note, however, that it is not a matter of speculation or
10 a guess; it is a matter of logical inference.

11 The law makes no distinction between direct and
12 circumstantial evidence. Circumstantial evidence is of no less
13 value than direct evidence, and you may consider either or
14 both, and may give them such weight as you conclude is
15 warranted.

16 It must be clear to you by now that counsel for the
17 government and counsel for the defendant are asking you to draw
18 very different conclusions about various factual issues in the
19 case. Deciding these issues will involve making judgments
20 about the testimony of the witnesses you have listened to and
21 observed. In making these judgments, you should carefully
22 scrutinize all of the testimony of each witness, the
23 circumstances under which each witness testified and any other
24 matter in evidence that may help you to decide the truth and
25 the importance of each witness' testimony.

MAHGden5

Charge

1 Your decision to believe or to not believe a witness
2 may depend on how that witness impressed you. How did the
3 witness appear? Was the witness candid, frank and forthright,
4 or did the witness seem to be evasive or suspect in some way?
5 How did the way the witness testified on direct examination
6 compare with how the witness testified on cross-examination?
7 Was the witness consistent or contradictory? Did the witness
8 appear to know what he or she was talking about? Did the
9 witness strike you as someone who was trying to report his or
10 her knowledge accurately? These are examples of the kinds of
11 common-sense questions you should ask yourselves in deciding
12 whether a witness is or is not truthful.

13 How much you choose to believe a witness may also be
14 influenced by the witness' bias. Does the witness have a
15 relationship with the government or the defendant that may
16 affect how he or she testified? Does the witness have some
17 incentive, loyalty or motive that might cause him or her to
18 shade the truth? Does the witness have some bias, prejudice or
19 hostility that may cause the witness to give you something
20 other than a completely accurate account of the facts he or she
21 testified to?

22 You should also consider whether a witness had an
23 opportunity to observe the facts he or she testified about and
24 whether the witness' recollection of the facts stands up in
25 light of the other evidence in the case.

MAHGden5

Charge

1 In other words, what you must try to do in deciding
2 credibility is to size up a person, just as you would in any
3 important matter where you are trying to decide if a person is
4 truthful, straightforward and accurate in his or her
5 recollection.

6 The law permits parties to offer opinion evidence from
7 witnesses who were not involved in the underlying events of the
8 case but who, by education or experience, have expertise in a
9 specialized area of knowledge. In this case, Stephen Flatley
10 was offered as such a witness by the government. Specialized
11 testimony is presented to you on the theory that someone who is
12 learned in the field may be able to assist you in understanding
13 specialized aspects of the evidence.

14 However, your role in judging credibility and
15 assessing weight applies just as much to this witness as to
16 other witnesses. When you consider the specialized opinions
17 that were received in evidence in this case, you may give them
18 as much or as little weight as you think they deserve. For
19 example, a specialized witness necessarily bases his or her
20 opinions, in part or in whole, on what the witness learned from
21 other persons or other materials, and you may conclude that the
22 weight given the witness' opinions may be affected by how
23 accurate or inaccurate the underlying information is. More
24 generally, if you find that the opinions of a specialized
25 witness were not based on sufficient data, education or

MAHGden5

Charge

1 experience, or if you should conclude that the trustworthiness
2 or credibility of such a witness is questionable, or if the
3 opinion of the witness is outweighed, in your judgment, by
4 other evidence in the case, then you may, if you wish,
5 disregard the opinions of that witness either entirely or in
6 part. On the other hand, if you find that a specialized
7 witness is credible and that the witness' opinions are based on
8 sufficient data, education and experience and that the other
9 evidence does not give you reason to doubt the witness'
10 conclusions, you may, if you wish, rely on that witness'
11 opinions and give them whatever weight you deem appropriate.

12 The defendant did not testify in this case. Under our
13 Constitution, a defendant has no obligation to testify or to
14 present any evidence, because it is the government's burden to
15 prove a defendant guilty beyond a reasonable doubt. A
16 defendant is never required to prove that he or she is
17 innocent.

18 Accordingly, you must not attach any significance to
19 the fact that the defendant did not testify. No adverse
20 inference against the defendant may be drawn by you because he
21 did not take the witness stand, and you may not consider it
22 against the defendant in any way in your deliberations in the
23 jury room.

24 With these preliminary instructions in mind, let us
25 turn to the specific charges against the defendant, Willie

MAHGden5

Charge

1 Dennis.

2 Federal law makes it a crime to intentionally use
3 emails, text messages or other such facilities of interstate
4 and foreign commerce to harass or intimidate another person in
5 such manner as to cause that person substantial emotional
6 distress. This is called the crime of cyberstalking. Before
7 the defendant can be convicted on any of the three charges in
8 this case, the government must prove each of the following
9 three elements of the given charges you are considering beyond
10 a reasonable doubt:

11 The first element is that the defendant sent two or
12 more emails and/or text messages to a given intended victim;

13 The second element is that the defendant did so with
14 the intent either to harass or to intimidate his alleged
15 victim. To harass means to cause worry or distress. To
16 intimidate means to frighten or to threaten with bodily harm
17 either the victim or the victim's family. To intend to do so
18 means to act deliberately and with a wrongful purpose, rather
19 than by accident or mistake.

20 The third element is that this course of conduct
21 caused, attempted to cause or would be reasonably expected to
22 cause substantial emotional distress to the alleged victim.

23 Mr. Dennis has been charged with three counts of
24 cyberstalking. In the first charge, he is charged with
25 cyberstalking John Bicks. In the second charge, he is charged

MAHGden5

Charge

1 with cyberstalking Eric Cottle. In the third charge, he is
2 charged with cyberstalking Calvin Bostick. In your
3 deliberations and in reaching your verdict, you must consider
4 each count separately and determine whether the government has
5 carried its burden of proof with respect to each element of the
6 charge you are considering.

7 One last requirement. Before a defendant can be
8 convicted of any given charge, the government must also
9 establish what is called venue, that is, that some act in
10 furtherance of that charge occurred in the Southern District of
11 New York. As already noted, the Southern District of New York
12 is the judicial district that includes Manhattan, the Bronx,
13 Westchester and several other counties previously mentioned.
14 Venue is proven if any act in furtherance of the crime you are
15 considering occurred in the Southern District of New York,
16 regardless of whether it was an act of the charged defendant or
17 anyone else.

18 Furthermore, on the issue of venue -- and on this
19 issue alone -- the government can meet its burden by a
20 preponderance of the evidence, that is, by showing that it was
21 more likely than not that an act in furtherance of a given
22 charge occurred in the Southern District of New York.

23 You will shortly retire to the jury room to begin your
24 deliberations. As soon as you get to the jury room, please
25 select one of your number as the foreperson, to preside over

MAHGden5

Charge

1 your deliberations and to serve as your spokesperson if you
2 need to communicate with the Court.

3 You will be bringing with you into the jury room a
4 copy of my instructions of law and a verdict form on which to
5 record your verdict.

6 And let me just pause there and show you the verdict
7 form. It is a very simply one page document. And on each
8 charge it asks you to check the box of guilty or not guilty, by
9 the way, there's no magic to the order of these charges, that's
10 just the way they were in the original indictment.

11 After you have reached your verdict, your foreperson
12 will sign the verdict form, date it and seal it in this
13 envelope very cleverly marked jury verdict. And I will not
14 open that envelope until you are all back here in the
15 courtroom. And then we will open it, we'll read out your
16 verdict, and I will ask each of you individually is that your
17 verdict. And the reason we go through all that is to be
18 absolutely sure that we have your verdict as you signed it.

19 So let's go back to the instructions.

20 In addition, we will send into the jury room all the
21 exhibits that were admitted into evidence, except for the
22 telephones, which you may request if you would like. You will
23 also receive an index to help you access specific exhibits. If
24 you want any of the testimony provided, that can also be done,
25 in either transcript or read-back form. But please remember

MAHGden5

Charge

1 that it is not always easy to locate what you might want, so be
2 as specific as you possibly can be in requesting portions of
3 the testimony.

4 Any of your requests, in fact any communication with
5 the Court, should be made to me in writing, signed by your
6 foreperson, and given to the marshal, who will be available
7 outside the jury room throughout your deliberations. After
8 consulting with counsel, I will respond to any question or
9 request you have as promptly as possible, either in writing or
10 by having you return to the courtroom so that I can speak with
11 you in person.

12 You should not, however, tell me or anyone else how
13 the jury stands on any issue until you have reached your
14 verdict and recorded it on your verdict form. As I have
15 already explained, the government, to prevail on a particular
16 charge against the defendant, must prove each essential element
17 of that charge beyond a reasonable doubt. If the government
18 carries this burden, you should find the defendant guilty of
19 that charge. Otherwise, you must find the defendant not guilty
20 of that charge.

21 Each of you must decide the case for yourself, after
22 consideration, with your fellow jurors, of the evidence in the
23 case, and your verdict must be unanimous. In deliberating,
24 bear in mind that while each juror is entitled to his or her
25 opinion, you should exchange views with your fellow jurors.

MAHGden5

Charge

1 That is the very purpose of jury deliberation, to discuss and
2 consider the evidence, to listen to the arguments of fellow
3 jurors, to present your individual views, to consult with one
4 another, and to reach a verdict based solely and wholly on the
5 evidence. If, after carefully considering all the evidence and
6 the arguments of your fellow jurors, you entertain a
7 conscientious view that differs from the others, you are not to
8 yield your view simply because you are outnumbered. On the
9 other hand, you should not hesitate to change an opinion that,
10 after discussion with your fellow jurors, now appears to you
11 erroneous..

12 In short, your verdict must reflect your individual
13 views and must also be unanimous.

14 This completes my instructions of law.

15 Now, ladies and gentlemen, in a minute or two, we will
16 swear in the marshal who will be guarding you throughout your
17 deliberations. You can take as little or as long as you need
18 for your deliberations. I have had juries that have reached a
19 verdict in five minutes. I have had juries that have reached a
20 verdict in ten days. It's totally up to you.

21 However, if you haven't reached a verdict by
22 4:00 o'clock today, then you have to leave and come back
23 tomorrow, because I have another matter at 4:00 o'clock that I
24 have to take up today. So if you haven't reached a verdict by
25 4:00 o'clock, just leave, come back tomorrow at 9:30, of

MAHGden5

Charge

1 course. And your foreperson will be in charge of making sure
2 that you are all there before you begin your deliberations
3 again.

4 Now, we come now to the one part of this process that
5 I really don't like, and that is excusing our alternate jurors.
6 You still cannot discuss the case with anyone because if, god
7 forbid, some juror gets sick or something, we would have to
8 call one or more of you back and start deliberations all over
9 again. But we will let you know when the jury has reached a
10 verdict. After that, you are free to discuss it. Until then,
11 if you would go into the jury room, get your belongings and
12 then just leave the courthouse, that would be appreciated. And
13 you have the very great thanks of the Court for your excellent
14 service. And you may leave at this time.

15 And now we will swear in the marshal.

16 (Marshal sworn)

17 THE DEPUTY CLERK: Jurors, please follow the marshal.

18 (At 2:40 p.m., the jury retired to deliberate)

19 (Continued on next page)
20
21
22
23
24
25

MAHGden5

1 (Jury not present)

2 THE COURT: I will mark a copy of my instructions as
3 Court Exhibit 1, and they will be docketed.

4 Now, while the jury is deliberating, I need to have
5 Mr. Dennis and at least one government counsel present here in
6 the courtroom so we can respond promptly to any questions the
7 jury may have. If there is no questions or no verdict by
8 4:00 o'clock, then you can just leave. Return here at 9:30
9 tomorrow. And I'll let you know then what the schedule is for
10 lunch, in case it appears that we're going to go through lunch.

11 Any questions that anyone has?

12 MR. DENNIS: Can I take a bathroom break, your Honor.

13 THE COURT: Well, I think we are ready to excuse you
14 for the day. Go to the bathroom, and then come back in the
15 room in case the jury has any questions.

16 Very good. We'll see you tomorrow or we will see you
17 later today if the jury has anything.

18 (Recess pending verdict)

19 THE COURT: So we have received a note from the jury.
20 It reads, quote, "Re: venue. Is the venue based on the
21 physical location of the text/email received or something else,
22 e.g. location at an email's headquarters versus home receipt?"

23 So what's the government's view on this?

24 MS. KUSHNER: Your Honor, is the venue based on
25 physical location of the text or email received, we would say,

MAHGden5

1 yes, it's based on physical location of where the text or email
2 is received or shown to a victim, and it also of course would
3 be based on the defendant's own physical location at the time.

4 THE COURT: So does defendant agree with that?

5 MR. DENNIS: Could you repeat that, please.

6 THE COURT: I'm sorry.

7 MR. DENNIS: Could I ask that to be repeated, please.

8 THE COURT: Yes. So as I understand the government's
9 position, they would respond by saying that the venue can be
10 based on the physical location of the text/email received or on
11 the physical location of the text/email sent or any action
12 taken by the defendant or any victim in the Southern District
13 of New York relating to the sending or receipt of the emails.

14 Do I have that right?

15 MS. KUSHNER: Yes, your Honor.

16 MR. DENNIS: That's fine, your Honor. Yes.

17 THE COURT: Very good. Let me write that out.

18 (Pause)

19 THE COURT: "To the jury, thank you for your note.
20 Venue can be based on: One, the physical location of the
21 text/email place of receipt; two, the physical location from
22 which the text/email is sent; or three, any other action taken
23 in the Southern District of New York in furtherance of the
24 alleged cyberstalking." Signed, Judge Rakoff.

25 So I will give that to my courtroom deputy to bring to

MAHGden5

1 the jury. And we will see what happens next.

2 (Recess pending verdict)

3 (Continued on next page)

MAHGden5

1 (Jury present)

2 THE DEPUTY CLERK: Will the foreperson please rise.
3 You say you have reached a verdict.

4 JUROR: We have, your Honor.

5 THE COURT: When I open the verdict and we read it
6 out, I will make no comment, because the determination of the
7 verdict is your job, not mine. But I do want to take a moment
8 to compliment you. This was a really excellent jury. I was
9 watching you out of the corner of my eye and you paid such
10 strict attention to all the evidence, you were taking careful
11 notes, it was really a very impressive job. And you will be
12 glad to know that, as a result of your excellent service, you
13 are free from being called for federal jury service for another
14 four years, which I know will be disappointing to you, but get
15 over it.

16 So let me open the envelope.

17 So the verdict appears in proper form. I will give it
18 to my courtroom deputy to take the reading of the verdict.

19 THE DEPUTY CLERK: Foreperson, please rise.

20 On United States v. Willie Dennis, Docket No. 20 Cr.
21 623, on the first charge, charge of cyberstalking John Bicks,
22 you, the jury, find Willie Dennis guilty or not guilty, you
23 say?

24 JUROR: Guilty.

25 THE DEPUTY CLERK: On the second charge, the charge of

MAHGden5

1 cyberstalking Eric Cottle, you, the jury, find Willie Dennis
2 guilty or not guilty, you say?

3 JUROR: Guilty.

4 THE DEPUTY CLERK: On the third charge, the charge of
5 cyberstalking Calvin Bostick, you, the jury, find Willie
6 Dennis guilty or not guilty, you say?

7 JUROR: Guilty.

8 THE DEPUTY CLERK: Shall I poll the jury.

9 THE COURT: Yes.

10 THE DEPUTY CLERK: Juror No. 1, is that your verdict?

11 JUROR NO. 1: Yes.

12 THE DEPUTY CLERK: Juror No. 2, is that your verdict?

13 JUROR NO. 2: Yes.

14 THE DEPUTY CLERK: Juror No. 3, is that your verdict?

15 JUROR NO. 3: Yes.

16 THE DEPUTY CLERK: Juror No. 4, is that your verdict?

17 JUROR NO. 4: Yes.

18 THE DEPUTY CLERK: Juror No. 5, is that your verdict?

19 JUROR NO. 5: Yes.

20 THE DEPUTY CLERK: Juror No. 6, is that your verdict?

21 JUROR NO. 6: Yes.

22 THE DEPUTY CLERK: Juror No. 7, is that your verdict?

23 JUROR NO. 7: Yes.

24 THE DEPUTY CLERK: Juror No. 8, is that your verdict?

25 JUROR NO. 8: Yes.

MAHGden5

1 THE DEPUTY CLERK: Juror No. 9, is that your verdict?

2 JUROR NO. 9: Yes.

3 THE DEPUTY CLERK: Juror No. 10, is that your verdict?

4 JUROR NO. 10: Yes.

5 THE DEPUTY CLERK: Juror No. 11, is that your verdict?

6 JUROR NO. 11: Yes.

7 THE DEPUTY CLERK: Juror No. 12, is that your verdict?

8 JUROR NO. 12: Yes.

9 THE DEPUTY CLERK: Jury polled, your Honor. Verdict
10 unanimous.

11 THE COURT: All right. Thank you, again, for your
12 excellent jury service, and you are now free to go. Thank you,
13 again.

14 (Jury excused)

15 THE COURT: Please be seated. We will set this down
16 for a sentencing date of January 18th, 2023 at 4:00 p.m.

17 Mr. Dennis, if you are still representing yourself,
18 anything you want me to take a look at in connection with
19 sentencing needs to be provided to me at least one week before
20 sentence in writing.

21 Where do we stand on bail?

22 MS. KUSHNER: Your Honor, the government at this time
23 would move to have the defendant remanded under 18 USC 3143.
24 The defendant now has the burden of proving by clear and
25 convincing evidence that he is not likely to flee and doesn't

MAHGden5

1 pose a danger to anyone or to the community. We don't think he
2 can satisfy either of those standards. And in fact, he has
3 every incentive to flee now, given the guilty verdict. And of
4 course, we know that he poses a danger at least to the victims
5 in this case. Mr. Bicks himself testified how scared he was
6 what the defendant might do after hearing Mr. Bicks testify
7 against him. And the defendant was also particularly
8 interested throughout the trial in who first reported this case
9 to the FBI; he now has that information. So we believe that
10 for those reasons there's no condition or combination of
11 conditions that can assure his appearance at sentencing and
12 that can protect the people in this trial and the community.

13 THE COURT: Let me hear from Mr. Dennis.

14 MR. DENNIS: Your Honor, as the government is aware, I
15 have not worked for the last three years, and so I have no
16 savings that remains in my account. As the government is
17 aware, I have been taking care of -- the primary caretaker for
18 my parents, who participated on this call, so I have been
19 living with them, attending to their healthcare needs, doctor's
20 appointments and the like and have been doing that for
21 approximately a year under the supervision of pretrial. So to
22 remand -- so my every intent was to continue to do what I have
23 been doing for them until sentencing, which is to maintain
24 their health to the best extent I can and also to put in place
25 a replacement for me once sentencing should occur. So at this

MAHGden5

1 point, they're on their own.

2 And pretrial will show, during my entire time, which
3 has been a year, I have been completely compliant with all my
4 obligations under my bail and have not violated anything, any
5 sort of rule, so my intent would be to return to Sanford,
6 Florida to continue my care of them.

7 THE COURT: So I think this is quite a difficult
8 decision because -- Mr. Dennis may or may not credit this -- I
9 have a great deal of sympathy for Mr. Dennis. Here is someone
10 who, through hard work, made a successful career with a major
11 law firm. And while I have no disagreement whatsoever with the
12 jury's verdict, it is in the broader context of a great shame
13 that it's all come to this. Furthermore, as I have expressed
14 repeatedly, I have nothing but sympathy for Mr. Dennis' aging
15 parents, who are elderly and apparently not in great health and
16 who have been looking to Mr. Dennis for support.

17 But having said that, on the other hand, Mr. Dennis is
18 a substantial flight risk. We know how he previously went to
19 the Dominican Republic and had to be captured there, and that
20 was before he had been convicted. Now, of course, he faces
21 potentially substantial time. Secondly, I think he is a danger
22 to the community. And I say that recognizing that he has a
23 complicated psychology and, at times, he is the model of
24 professionalism, but at other times, he seemingly loses total
25 control, as the evidence in this case so clearly showed. And

MAHGden5

1 I'm particularly struck by the fact that, as she testified,
2 Ms. Bostick remains in fear of what may happen if he is at
3 large.

4 So I think, in the end, the balance is decided by the
5 burden of proof. Under the law, the burden of proof shifts to
6 the defendant at this stage, and I don't believe he has
7 satisfied the burden of proof. So he will be remanded, and the
8 marshals can step forward and take care of that.

9 That concludes this proceeding.

10 MR. DENNIS: Your Honor, I'd like to make a request
11 for extension to apply for any appeals.

12 THE COURT: Yes. Mr. Dennis -- excuse me, please be
13 seated again -- first of all, since you are pro se, if you
14 wish, we will file a notice of appeal on your behalf.

15 MR. DENNIS: Yes.

16 THE COURT: I urge you to think once again about
17 whether you really want to go pro se. I would at least -- I'm
18 not making any promises -- but I would at least consider
19 appointing free counsel to represent you on appeal.

20 Now, I don't want to go through again this whole
21 business where you just fire one guy and then fire the next guy
22 and so forth. But I will allow you for this limited purpose to
23 send me an email sometime in the next week saying whether or
24 not you want me to appoint someone to represent you on appeal.
25 In the meantime, though, we will go ahead and file a notice of

MAHGden5

1 appeal on your behalf.

2 Very good. Thanks a lot.

3 (Adjourned)

INDEX OF EXAMINATION

Examination of:	Page
GARY COBB	
Direct By Ms. Simon	726
Cross By Mr. Dennis	730